

No. 1585

7

United States Circuit Court of Appeals

FOR THE NINTH CIRCUIT.

WONG SEE YING,

Appellant,

vs.

THE UNITED STATES OF AMERICA,

Appellee.

TRANSCRIPT OF RECORD.

Upon Appeal from the United States District Court,
for the Northern District of California.

FILED

APR 24 1908

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UNITED STATES OF AMERICA.

Circuit District of the United States, Northern District of California.

Clerk's Office.

No. ———.

In the Matter of WONG SEE YING, on Habeas Corpus.

Praecepta.

To the Clerk of Said Court:

Sir: Please Issue:

Petition for Writ of Habeas Corpus.

Amended Petition for Writ of Habeas Corpus.

Order Writ Issue.

Writ of Habeas Corpus.

Answer and Return.

Stipulation as to Answer and Return.

Stipulation as to Parties.

Transcript of Testimony Taken at Hearing.

Mem. of Opinion.

Order Writ Discharged and Wong See Ying Remanded to the Custody from Whence Taken.

Petition for Appeal.

Assignment of Errors.

Order Allowing Appeal to Circuit Court of Appeals.

Order Appeal Allowed.

Copy of Traverse and Return.

[Endorsed]: Filed Mar. 20, 1908. Jas. P. Brown, Clerk. By John Fouga, Deputy Clerk.

Citation on Appeal (Copy).

UNITED STATES OF AMERICA—ss.

The President of the United States to Hart H. North, Commissioner of Immigration, The Pacific Mail Steamship Company (a Corporation), and to The United States of America, Greeting:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the City of San Francisco, in the State of California, within thirty days from the date hereof, pursuant to an order allowing an appeal of record in the Clerk's Office of the United States District Court for the Northern District of California, wherein Wong See Ying is appellant, and you appellees, to show cause, if any there be, why the decree rendered against the said appellant, as in the said order allowing appeal mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable JOHN J. DeHAVEN, United States District Judge for the Northern District of California, this 30th day of March, A. D. 1908.

JOHN J. DeHAVEN,
United States District Judge.

Service of the within citation by copy admitted this 30th day of March, 1908.

ROBT. T. DEVLIN,

U. S. Attorney.

Attorney for Hart H. North, Commissioner of Immigration.

CHAS. J. HEGGERTY,

Attorney for Pacific Mail Steamship Company, a Corporation.

[Endorsed]: Filed March 30th, 1908. Jas. P. Brown, Clerk. By John Fouga, Deputy Clerk U. S. District Court.

In the District Court of the United States, in and for the Northern District of California.

No. ———.

In the Matter of WONG SEE YING on Habeas Corpus.

Petition of Wong Hong Ping (Wong Hong).

Wong Hong Ping, being duly sworn, states that he is the petitioner in the above-entitled matter.

That Wong See Ying is unlawfully and illegally imprisoned, detained, confined, and restrained of his liberty, and that the illegality and unlawfulness of said imprisonment, detention, confinement and restraint consist in this, to wit:

That said Wong See Ying is unlawfully imprisoned, detained, confined and restrained of his liberty by the Pacific Mail Steamship Company and H. H.

North, Commissioner of Immigration at the Port of San Francisco.

That said H. H. North claims that said Wong See Ying is not entitled to enter the United States on the ground that said Wong See Ying is not a native of the United States,

That the proofs and evidence, documentary and otherwise, submitted by said Wong See Ying and others on his behalf establish conclusively that said Wong See Ying was born in San Francisco, California, (28) years ago, in a building on the corner of Commercial and Dupont Streets, and that said Wong See Ying departed for the Empire of China with his mother about the year 1880.

That said H. H. North arbitrarily and unreasonably declined to believe the proofs and evidence, documentary and otherwise, submitted by said Wong See Ying, and by others in his behalf, in support of his claim that he was born in the United States, and entitled to enter the United States at the port of San Francisco.

That the proofs and evidence, documentary and otherwise, submitted by said Wong See Ying and others in his behalf, in support of his claim that he was born in the United States and entitled to enter the United States, port of San Francisco, were competent, relevant, material and truthful, and established conclusively that said Wong See Ying was born in the United States.

That said Wong See Ying was by virtue of the decision of the said H. H. North, Commissioner of Im-

migration as aforesaid, and of the Department of Commerce and Labor on appeal denying his claim that he was born in the United States, denied his just and substantial right under the constitution and the laws of the United States, and that he did not have a fair and impartial hearing.

That said Wong See Ying, duly prosecuted and appealed from the decision of said Commissioner of Immigration to the Department of Commerce and Labor, and that said decision was affirmed by said Department of Commerce and Labor.

That the evidence taken and investigation made by said Commissioner of Immigration at San Francisco was of a secret character, and that said Wong See Ying was not permitted to be present, either personally or by an attorney, at the taking of said evidence (save his own), or at any of said investigations or hearings held by said Commissioner of Immigration in secret as aforesaid.

That at none of the said secret hearings was said Wong See Ying permitted to be confronted with witnesses against him, if any, and was not apprised or permitted to be informed of the evidence, or the purport thereof, taken and submitted with reference to his said application to be permitted to land in the United States on the ground that he was born in the United States.

WONG HONG,

Character in Chinese.

JOHN C. CATLIN,

Attorney for Petitioner.

Dated San Francisco, Jan. 21st, 1908.

State of California,
City and County of San Francisco,—ss.

Wong Hong, being duly sworn, states that he is the petitioner in the above-entitled proceedings, and that he knows Wong See Ying, and makes the petition on behalf of said Wong See Ying; that he knows the contents of said petition, and believes the same to be true as to all matters stated on his information and belief, and as to those matters he believes it to be true.

That he resides and does business at 1538 Geary Street, San Francisco.

WONG HONG PING,
Character in Chinese.

WONG BEW,
1538 Geary.

Subscribed and sworn to before me this 28th day of January, 1908.

JAS. P. BROWN,
Clerk U. S. Dist. Co.

Order.

Let the writ of Habeas Corpus issued pursuant to the prayer of above petitioner.

[Endorsed]: Filed Jany. 28, 1908. Jas. P. Brown, Clerk. By John Fouga, Deputy Clerk.

In the District Court of the United States, in and for the Northern District of California.

In the Matter of WONG SEE YING on Habeas Corpus.

Petition of Wong Hong (Wong Hong Ping) on Behalf of Wong See Ying for a Writ of Habeas Corpus.

Wong Hong, being duly sworn, states that he is the petitioner in the above-entitled matter.

That Wong See Ying is unlawfully and illegally imprisoned, detained, confined and restrained of his liberty, and that the illegality, unlawfulness of said imprisonment, detention, confinement and restraint consists in this, to wit:

That said Wong See Ying is unlawfully imprisoned, detained, confined and restrained of his liberty by the Pacific Mail Steamship Company and by H. H. North, Commissioner of Immigration at the Port of San Francisco.

That said H. H. North claims that said Wong See Ying is not entitled to enter the United States on the ground that said Wong See Ying is not a native of the United States.

That proofs and evidence, documentary and otherwise, submitted by said Wong See Ying and others on his behalf establish conclusively that said Wong See Ying was born in San Francisco, California, (28) years ago, in a building on the cor. of Commercial and Dupont Streets; that said Wong See

Ying departed for the Empire of China and with his mother about the year 1880.

That said H. H. North arbitrarily and unreasonably declined to believe proofs and evidence, documentary or otherwise, submitted by said Wong See Ying and others in his behalf, in support of his claim that he was born in the United States and entitled to enter the United States at the port of San Francisco.

That the proofs and evidence, documentary and otherwise, submitted by said Wong See Ying and by others in his behalf in support of his claim that he was born in the United States, and entitled to enter the United States, port of San Francisco, were competent, relevant, material, and truthful, and established conclusively that said Wong See Ying was born in the United States.

That said Wong See Ying was by virtue of the decision of the said H. H. North, Commissioner of Immigration as aforesaid and of the Department of Commerce and Labor on appeal denying his claim that he was born in the United States, denied his just and substantial right under the constitution, and under the laws of the United States, and that he did not have a fair and impartial hearing.

That said Wong See Ying duly prosecuted and appealed from the decision of said Commissioner of Immigration to the Department of Commerce and Labor, and that said decision was affirmed by said Department of Commerce and Labor.

That the evidence taken and investigation made by said Commissioner of Immigration at San Fran-

cisco was of a secret character, and that said Wong See Ying was not permitted to be present, either personally or by an attorney, at the taking of said evidence (save his own) or at any of said investigation or hearing held by said Commissioner of Immigration in secret as aforesaid.

That none of said secret hearing was said Wong See Ying permitted to be confronted with *witness* against him, if any, and was not apprised or permitted to be informed of the evidence, or the purport thereof, taken and submitted with reference to said application to be permitted to land in the United States on the ground that he was born in the United States.

That your petitioner prays that a writ of habeas corpus may be granted directed to the said Pacific Mail Steamship Company and the general manager of said Steamship Company, and to H. H. North, Commissioner of Immigration, commanding them to have the body of said passenger before your Honor, at a time and place therein to be specified, to do and receive what shall then and there be considered by your Honor concerning him, together with the time and cause of his detention, and the said writ, and that he may be restored to his liberty.

Dated, San Francisco.

WONG HONG PING,
Character in Chinese.

JOHN C. CATLIN,
Atty. for Petitioner.

Wong Hong, being duly sworn, states that he is the petitioner in the above-entitled proceedings, and

that he knows Wong See Ying, and makes this petition on behalf of said Wong See Ying; that he knows the contents of said petition, and believes the same to be true as to all matters stated of his knowledge, except as to the matters stated on his information and belief, and, as to those matters, he believes them to be true. That he resides and does business at 1538 Geary St., San Francisco, Cal.

WONG HONG PING,

Character in Chinese.

Subscribed and sworn to before me this 20th day of January, 1908.

[Seal]

JOHN FOUGA,

Deputy Clerk U. S. District Court, Northern District of California.

WONG BEW, Interpreter,

1538 Geary St.

ORDER.

Let the writ of habeas corpus issue pursuant to the prayer of the above petitioner.

[Endorsed]: Filed Jany. 21st, 1908. Jas. P. Brown, Clerk. By John Fougua, Deputy Clerk.

In the District Court of the United States, Northern District of California.

No. 13,751.

In the Matter of WONG SEE YING on Habeas Corpus.

**Order to Show Cause Why a Writ of Habeas Corpus
Should not Issue.**

Ordered that the Pacific Mail Steamship Company and H. H. North, Commissioner of Immigration at the port of San Francisco, show cause before this Court on Tuesday, January 28, 1908, at 10 o'clock A. M., why a writ of habeas corpus should not issue in accordance with the prayer of the petition herein.

Further ordered that a copy of the petition herein and of this order be served upon said respondents, and upon the United States Attorney for the Northern District of California, on or before January 24, 1908.

Dated January 21, 1908.

JOHN J. DeHAVEN,
Judge.

[Endorsed]: Filed January 21st, 1908. Jas. P. Brown, Clerk. By J. S. Manley, Deputy Clerk.

*In the District Court of the United States, Northern
District of California.*

No. 13,751.

In the Matter of WONG SEE YING on Habeas Corpus.

Writ of Habeas Corpus.

The President of the United States of America, to the Pacific Mail Steamship Co., and the General Manager of said Steamship Company, and

to H. H. North, Commissioner of Immigration, or whoever may have the custody or control of said Wong See Ying, Greeting:

You are hereby commanded that you have the body of the above-named person by you imprisoned and detained, as it is said, together with the time and cause of such imprisonment and detention, by whatsoever name the said person shall be called or charged before the Honorable John J. DeHaven, Judge of the District Court of the United States, for the Northern District of California, at the courtroom of said Court in the City and County of San Francisco, California, on the 20th day of February, A. D. 1908, at 10 o'clock A. M., to do and receive what shall then and there be considered in the premises.

And have you then and there this writ.

Witness, the Honorable JOHN J. DeHAVEN, Judge of the said District Court, and the seal thereof, at San Francisco, in said District, on the 15th day of February, A. D. 1908.

[Seal]

JAS. P. BROWN,

Clerk of Said District Court.

By Francis Krull,

Deputy Clerk.

UNITED STATES MARSHAL'S RETURN.

I hereby return that I received the within writ on the 15th day of February, 1908, and personally served the same on the 17th day of February, 1908, on the Pacific Mail Steamship Company, a foreign corporation, by handing to and leaving with A. J. Frey, who is the person designated by said defend-

ant, Pacific Mail Steamship Company, a foreign corporation, under the Statutes of California, as the person upon whom all legal process is to be served in the matters affecting the Pacific Mail Steamship Company, a foreign corporation, in the State of California, a certified copy thereof, in the within entitled cause in the City and County of San Francisco, in said Northern District of California.

C. T. ELLIOTT,

United States Marshal.

By M. J. Fitzgerald,

Office Deputy.

San Francisco, Feb. 18, 1908.

[Endorsed]: Filed February 18th, 1908. Jas. P. Brown, Clerk. By John Fouga, Deputy Clerk.

In the District Court of the United States, in and for the Northern District of California.

No. 13,751.

In the Matter of WONG SEE YING on Habeas Corpus.

Answer and Return of H. H. North, Commissioner of Immigration, to the Writ of Habeas Corpus Herein.

Comes now H. H. North and respectfully makes this answer and return to the writ of habeas corpus issued in the above-entitled matter on February, 1908, and as reasons why the Chinese, Wong See Ying, should not be released upon the hearing of the said writ:

I.

That the petition for writ of habeas corpus herein fails to state any fact or facts from which it can be determined that the applicant for said writ, to wit, the said Wong See Ying, is in fact unlawfully detained or imprisoned, or restrained of his liberty.

II.

Respondent further shows that the said Wong See Ying is an alien Chinese person, and a native of the Empire of China; that he has no right to enter or land within the United States.

That said Wong See Ying arrived in the port and harbor of San Francisco on the steamship "Manchuria" on October 12th, 1907, and at said time came to said port as a passenger upon said vessel directly from the Empire of China; that on his said arrival in said port he made application to this respondent for permission to land and enter the United States of America as hereinafter shown.

That for more that four years last past this respondent has been, and now is, a duly appointed, qualified and acting Commissioner of Immigration at the Port of San Francisco. That as such officer he has had, and now has, charge of the execution of all of the laws of the United States, relating to the landing in, or exclusion from, the United States of all Chinese persons.

That said Wong See King so made application to be permitted to land in the United States, as hereinbefore alleged to this respondent as such officer. That upon the arrival of the said steamship "Man-

churia," as hereinbefore alleged, to wit, on October 16th, 1907, at the port of San Francisco, said vessel was boarded by an officer of the Immigration Service of the United States at said port, to wit, by one P. F. Montgomery, which said officer was acting under this respondent. That at said time said P. F. Montgomery was duly appointed, qualified and acting Immigrant Inspector at this port.

That on said date, to wit, on the said October 16th, 1907, and upon said vessel, while at this port, and before the said Wong See Ying had been permitted to land within the said United States, he, the said Wong See Ying, duly applied to said Inspector to be permitted to land in, and to enter the United *United States*, and he, the said Wong See Ying, was then and thereupon said P. F. Montgomery, inspector as aforesaid, personally examined in order to ascertain what evidence, if any, the said Wong See Ying might be able to produce in his support of his right to land in and to enter the United States.

That then and there, to wit, on said October 16th, 1907, said Wong See Ying named all of the witnesses who might give any evidence in support of his right to land in or enter the United States.

III.

That thereafter, to wit, on October 23d, October 24th, 1907, November 13th, 1907, and November 15th, 1907, hearings were had under the supervision, direction, and in accordance with the practice of this respondent as such Commissioner of Immigration at said port of San Francisco. That said hearings were

conducted by the said inspector, P. F. Montgomery, and at said hearing all of the witnesses who had theretofore been specified and named as witnesses who might give evidence in support of said Wong See Ying's right to land in or enter the United States were duly examined, and that such witnesses did *de-*close to the said inspector at said hearings all of the facts within their knowledge relative to the right of the said Wong See Ying to land in or enter the United States.

That the examination of the said witnesses was made by the said inspector, P. F. Montgomery, and that the same was full and complete.

That said witnesses at said hearings related all the facts within their knowledge, as such witnesses, and each of said witnesses, after being duly and regularly questioned at length and after having made answer to the questions propounded at said hearings, was asked to state anything further with reference to the nativity of or the right of the said Wong See Ying to land in or enter the United States that had been stated in response to the questions propounded at said hearings.

That each of the said witnesses stated at said hearings that the answers by them were all the information which they could give with reference to the nativity of said Wong See Ying or with reference to his right to land in or enter the United States.

That, in addition to examining the witnesses designated by the applicant, the applicant himself was examined at said hearings and permitted to testify

with reference to his right to land in and enter the United States.

That the examination of the said Wong See Ying was full and complete, and that at said examination said Wong See Ying was permitted to testify at length with reference to his nativity and with reference to his right to land in and enter the United States, and was in no manner prevented from giving all the facts within his knowledge with reference to said matters.

IV.

That the said hearings were not secret. That the same were held strictly in accord with rules and regulations 5 and 6, duly promulgated by the Secretary of Commerce and Labor of the United States and in force as regulations governing the admission of Chinese into the United States.

That, as provided in rule 6 last hereinbefore referred to, the examinations of the said witnesses occurred separate and apart from the public and in the presence of Government officials, and without the applicant himself being present.

That said applicant made no request to be present at the examination of the said witnesses offered in behalf of the said applicant, and made no request to be represented by counsel at said examinations. That had such request been made, the said applicant would have been permitted to be present in person and by counsel at such examination of the said witnesses.

That said applicant was not represented by counsel at his own examination, and that said applicant was

examined separate and apart from the public. That, had the said applicant made request to be represented by counsel at his own examination, such request would have been complied with and the said applicant would have been permitted to have counsel represent him at said hearings and at his own examination.

That, in accordance with rule 6, all witnesses presenting themselves on behalf of the said applicant were fully heard, and all were regularly sworn by said immigrant inspector to testify the truth prior to the taking of the testimony.

V.

That, upon the conclusion of the said hearings, to wit, on the 27th day of November, 1907, said Wong See Ying, applicant as aforesaid, was duly and regularly adjudged to be inadmissible, and that it was duly and regularly determined by this respondent that he, the said Wong See Ying, had no right to land in or enter the United States, and that he was an alien Chinese person and a native of the Empire of China.

VI.

That upon its being determined that said applicant had no right to land in or enter the United States, he was, in accordance with the said rule 6, advised of his right to appeal to the Secretary of Commerce and Labor of the United States, and the said applicant was so advised by a notice written in the Chinese language, and thereafter perfected an appeal as permitted by said rule 6.

That in the matter of taking said appeal, said ap-

plicant was regularly represented by counsel. That prior to the taking of the said appeal said applicant was at all times advised by counsel familiar with the rules and regulations herein referred to governing the admission of Chinese into the United States, but neither the said applicant nor his counsel suggested any witnesses other than those examined as hereinbefore mentioned, or any evidence other than that hereinbefore mentioned that could be offered or that should be received in support of the right of the said applicant to land in or enter the United States.

VII.

That upon its being determined by this respondent that a Chinese applicant shall not be permitted to land in or enter the United States under the rules and regulations hereinbefore referred to in accordance with rules 12 and 13 of the said rules and regulations, further opportunity is afforded, and has at all times been afforded to an applicant so adjudged to be inadmissible to offer further evidence in support of his alleged right to land within the United States.

That after it had been determined by this respondent, as hereinbefore alleged, that the said Wong See Ying was inadmissible and had no right to land in or enter the United States, and after his counsel had been notified of such determination on the part of this respondent, and after the said counsel for the said applicant had been notified of the right of the applicant to appeal, as hereinbefore alleged, said counsel was permitted to examine and make copies

of the evidence upon which said excluding decision was based, in accordance with said rule 6.

That neither said applicant nor his counsel, as permitted under rules 12 or 13, as hereinbefore mentioned, after being so permitted to examine and make copies of the evidence upon which the said excluding decision was based; and after being notified of the said excluding decision, offered no additional evidence of any kind, although having full opportunity so to do in support of the alleged right of the said applicant to be landed in the United States.

VIII.

That the counsel for the said applicant, upon being notified of the right of the applicant to appeal to said Secretary of Commerce and Labor of the United States from said excluding decision, took and perfected an appeal, in behalf of the said applicant, but without offering any additional evidence in accordance with rules 12 and 13 of the rules and regulations hereinbefore referred to.

That upon the taking of the said appeal by the said applicant to the said Secretary of Commerce and Labor, the complete record of the said case, accompanied by all of the evidence, affidavits, statements and briefs submitted in the matter of the hearing of the said application, and accompanied by the views of this respondent in making the said excluding decisions as aforesaid, was, as required by the said rules and regulations, forwarded to the Secretary of Commerce and Labor at Washington, D. C.

That thereupon, and after the said appeal was duly and regularly perfected in accordance with the said rules and regulations, the said Secretary of Commerce and Labor duly and regularly determined on the 17th day of January, 1908, that the said Chinese applicant, to wit, the said Wong See Ying, was inadmissible, was an alien Chinese person and a native of the Empire of China, and had no right to land in or enter the United States; that his said appeal should be dismissed, and that he should be returned to the country from whence he came, at the expense of the transportation agency owning the vessel on which he had been brought to this country. That all the evidence herein mentioned was fully considered on said appeal.

That all of the hearing had for the purpose of determining the right of the said Chinese applicant to land in or enter the United States were full, fair and regular, and that the said applicant at all the times had full and fair opportunity to be heard and to offer evidence in support of his right to land in or enter the United States.

That the detention of the said Wong See Ying by this respondent and by the other respondent herein, to wit, the Pacific Mail Steamship Company, is for the purpose of deporting the said Wong See Ying to the country from whence he came, to wit, the Empire of China, in pursuance to the said order of deportation and in pursuance of the requirements of the law and of the said rules and regulations hereinbefore referred to, required that any Chinese person

refused admission into the United States, must be returned to the country from whence he came at the expenses of the transportation agency owning the vessel or conveyance bringing such Chinese person.

IX.

That all acts and things done by this respondent in conducting said hearings, or in detaining the said Wong See Ying, were done and performed by this respondent acting as such Commissioner of Immigration, or done and performed by officers acting under the direction of this respondent as such Commissioner of Immigration at said port of San Francisco, and under and in pursuance of the laws of the United States relating to the exclusion of Chinese persons, and under the said rules and regulations promulgated and existing hereinbefore referred to.

That rules 5 and 6, 9, 12, and 13 of the said rules and regulations are as follows:

Rule 5. Immediately upon the arrival of Chinese persons at any port mentioned in rule 4 it shall be the duty of the officer in charge of the administration of the Chinese exclusion laws to have said Chinese persons examined promptly, as by law provided, touching their right to admission; and to permit to land those proving such right.

Provided, That nothing contained in these regulations shall be construed to authorize the boarding of vessel of foreign navies arriving at ports of the United States for the purpose of enforcing the provision of the Chinese exclusion laws.

Rule 6. The examination prescribed in rule 5 shall separate and apart from the public, in the presence of Government officials and such witness or witnesses only as the examining officer shall designate: *Provided however*, That all witnesses presenting themselves on behalf of any Chinese applicant be fully heard. If upon the conclusion of the hearing the Chinese applicant is adjudged to be inadmissible, he shall be advised of his right to appeal by a notice written or printed in the Chinese language, and his counsel shall be permitted, after notice of appeal has been duly filed, to examine and make copies of the evidence upon which the excluding decision is based. If there is a consular officer of China at port where the examination is held, he shall also be notified in writing that the said Chinese applicant has been refused a landing, and shall be permitted to examine the record.

Rule 9. Every Chinese person refused admission to the United States, being actually or constructively on the vessel or other conveyance by which he was brought to the port of entry, must be returned to the country from whence he came, at the expense of the transportation agency owning such vessel or conveyance.

Rule 12. Every Chinese person refused admission under the provisions of the exclusion laws of the decision of the officer in charge at the port of entry may take an appeal to the Secretary of Commerce and Labor by giving written notice thereof to the

officer in charge within two days, exclusive of Sundays and legal holidays, after such decision is rendered.

Rule 13. Notice of appeal provided for in rule 12 shall act as a stay upon the disposal of the Chinese person whose case is thereby affected until a final decision is rendered by the Secretary of Commerce and Labor; and within five days after the excluding decision is rendered, unless further delay is required to investigate and report upon new evidence, the complete record of the case, together with such briefs and affidavits and statements as are to be considered in connection therewith, shall be forwarded to the Secretary of Commerce and Labor by the officer in charge at the port of arrival, accompanied by his views thereon in writing. If, on appeal, evidence in addition to that brought out at the hearings is submitted, it shall be made the subject of prompt investigation by the officer in charge and be accompanied by his report.

United States of America,
State and Northern District of California,
City and County of San Francisco,—ss.

H. H. North, being first duly sworn, deposes and says, that he is the respondent in the foregoing answer and return. That he has read the same and knows the contents thereof, and that the matters therein set forth are true to the best of his knowledge, information and belief.

H. H. NORTH.

Subscribed and sworn to before me this 19th day of February, 1908.

[Seal] HARRY L. HORN,
Notary Public in and for the City and County of
San Francisco, State of California.

[Endorsed]: Filed Feb. 20, 1908. Jas. P. Brown,
Clerk. By Francis Krull, Deputy Clerk.

*In the District Court of the United States in and for
the Northern District of California.*

In the Matter of WONG SEE YING on Habeas
Corpus.

**Stipulation that the United States of America shall
be Deemed a Party; that Answer and Return of
H. H. North shall be Deemed Answer and Re-
turn of United States, etc.**

It is hereby stipulated that the United States of America may appear in, and shall be deemed a party to, the above-entitled proceedings. That H. H. North, the respondent in the above-entitled proceedings, is an official of the United States, to wit, a Commissioner of Immigration, as set forth in the answer and return of the said H. H. North made and filed herein. That the answer and return of said H. H. North made and filed herein, shall be deemed the answer and return of the said United States, and shall be taken as setting forth the reasons why the United States

claims to be entitled to have the said Wong See Ying detained and held in custody.

Dated February, 18th, 1908.

JOHN CATLIN,
STIDGER & STIDGER,
Attys. for Petitioner.

[Endorsed]: Filed Feb 20, 1908. Jas. P. Brown.
Clerk. By Francis Krull, Deputy Clerk.

No. 13,751.

*In the District Court of the United States, in and for
the Northern District of California.*

In the Matter of WONG SEE YING on Habeas
Corpus.

**Stipulation that Answer and Return of H. H. North
shall be Deemed Part of Answer and Return of
Pacific Mail S. S. Co., etc.**

It is hereby stipulated that the answer and return to the writ of habeas corpus issued herein, made and filed by H. H. North, Commissioner of Immigration, shall be taken and deemed to be a part of the answer and return of the respondent, Pacific Mail Steamship Company. And it is admitted that the Pacific Mail Steamship Company detains and intends to detain the petitioner Wong See Ying only for the purpose of carrying out *out* the lawful orders of the immigration officials of the United States directing the deportation of the said Wong See Ying, made in the matter of the alleged hearing of the application of the said Wong See Ying to land in the United States,

which said alleged hearing is set out in the answer and return of the said H. H. North.

Dated February, 18th, 1908.

JOHN C. CATLIN,
STIDGER & STIDGER,
Attorneys for Petitioner.

Attorney for Respondent H. H. North.

Attorney for the Pacific Mail Steamship Company.

[Endorsed]: Filed Feb. 20, 1908. Jas. P. Brown,
Clerk. By Francis Krull, Deputy Clerk.

*In the District Court of the United States in and for
the Northern District of California.*

Hon. J. J. DE HAVEN, Judge.

No. 13,751.

In the Matter of WONG SEE YING, for Writ of
Habeas Corpus.

Hearing.

Thursday, February 20th, 1908.

J. C. CATLIN, Esq., and O. P. STIDGER,
Esq., for Petitioner.

GEORGE CLARK, Esq., Asst. U. S. Attorney,
for the United States.

(This matter now came on for hearing before the
Court, and the following proceedings were had.)

(Mr. Catlin stated the case for the petitioner.)

Testimony.

H. H. NORTH, called for the petitioner, sworn.

Mr. CATLIN.—Q. Mr. North, state your name and your official position?

A. H. H. North; United States Commissioner of Immigration.

Q. Do you remember the case of an applicant for admission to the United States named Wong See Ying? A. Yes, sir, I recollect the case.

Q. Did you personally have anything to do with that application? A. I did.

Q. Did you hear the witnesses?

A. I did not.

Q. What was your connection with the case?

A. Do you mean by that my personal connection?

Q. Yes.

A. I reviewed the record in the case and entered a denial, and subsequently forwarded the appeal to the Department at Washington.

Q. You perused the record?

A. Yes, sir.

Q. That was made before Deputy Inspector Montgomery?

A. Made by Inspector Montgomery, yes. He is not a deputy; he is a Chinese Inspector.

Q. Mr. North, do you know the term used in the Immigration Bureau "Raw native cases"?

A. I think I invented that term, yes.

Q. Will you state what a raw native case is?

A. A raw native, according to the term that is used in our service, applies to a Chinaman who arrives at this port from China, and claims to have been here

(Testimony of H. H. North.)

prior to the 1st of June, 1882, and to have returned to China with his parents prior to that date. It is to distinguish that class of cases from those cases which have been visaed out of this port by officers of this service, claiming the right to return as natives.

Q. Was the case of Wong See Ying what you call a raw native case?

A. My recollection is that it was; the record will show.

Q. What is the custom of the Immigration Commissioner or Bureau in regard to the raw native cases, allowing them to land or their refusal?

A. I do not know there is any hard-and-fast rule. Every case stands on its own merits. There have been such cases landed, and many have been denied.

Q. Have any of those cases been landed in the last year? A. Yes, sir.

Q. There have been some? A. Yes, sir.

Q. Have there been over one or two landed in the last year?

Mr. CLARK.—I submit that is irrelevant.

The COURT.—The objection is sustained.

Mr. CATLIN.—I will state that the purpose of the question is, it is understood, or I so understand it, that a raw native case will not be landed unless there are a multitude of witnesses and some of them white; that a raw native will not be landed on Chinese testimony alone. I believe the law does not contemplate such a thing.

The COURT.—The witness has stated there is no hard-and-fast rule; that each case depends on its own

(Testimony of H. H. North.)

merits; in some instances they have been landed, and many refused. Introduce your evidence showing what took place, and what did not take place.

Mr. CATLIN.— I except to the ruling.

Q. Do you remember, Mr. North, how many witnesses were called in the Wong See Ying case?

A. I can refresh my memory from the record.

Q. I have no objection to your doing that.

A. (After examination.) In addition to his own testimony, there were three Chinese examined before the case was denied by me. The record does not show there were any examined afterward.

Q. Can you remember for what particular reason you disbelieved the testimony of those three witnesses?

A. I cannot remember it without reviewing the case; no.

Q. Would you believe Chinese witnesses under any circumstances? A. Certainly.

Q. Would you land a case where there was nothing but Chinese witnesses?

A. I have landed thousands of such.

Q. Within the last two years?

A. Yes, sir.

Q. These raw native cases?

A. I could not say as to that.

Q. Have you got your summing up of this case in your pocket?

A. No, sir, it is in this record.

Q. Will you refresh your memory from that?

(Testimony of H. H. North.)

Mr. CLARK.—Look at pages 34 and 35 of the record and your opinion will be found there.

A. My conclusions are found in the written review by me on pages 34 and 35. As to just what led to the conclusion, that I probably could hardly tell without reading the entire record. I state “The evidence is wholly unconvincing, and that I am neither arbitrary nor unfair in rejecting it entirely.” The record goes on to show that the applicant claims to have departed with his mother in 1880, and that his father or alleged father, a Chinese laborer, is reported to have left this city for China, something over a year prior to the date of the decision on November 27th last. The evidence on his behalf is given by three Chinese persons. I suppose the record speaks for itself as to what they testified to. Without reading all the testimony again, I cannot state at this time what it was.

Mr. CATLIN.—Q. Do you remember that the testimony of the three witnesses for the applicant was practically the same—that is, the testimony of one not contradicting the other?

A. I do not remember that. I have looked over so many other cases since then that it is impossible to keep the facts fresh in my mind.

Q. Do you remember this, Mr. North: The applicant testified that his father was a maker of new clothes on sewing-machines in San Francisco, and the witnesses in San Francisco testified that the father of the boy was not a maker of new clothes

(Testimony of H. H. North.)

but was a laundryman, who laundried new clothes. Do you remember that?

A. No, sir, I do not remember that.

Mr. CATLIN.—I wish to introduce in evidence the whole of this record and have it marked Exhibit "A."

The WITNESS.—If it is possible to put in a certified copy of that, I should like to have it done. I was directed by the Department at Washington to return that. It is part of the records at Washington.

Mr. CLARK.—We will have a copy made.

Mr. CATLIN.—I will make no point on that.

The COURT.—This particular paper they do not want to leave on the files of the Court as it must be returned to Washington.

Mr. CATLIN.—It is satisfactory to me in any way it is given to your Honor. I do not care whether it is this or a copy.

Mr. CLARK.—Do you intend to have a copy of that made to put in evidence? If you desire to have a copy made and put it in we have no objection.

Mr. CATLIN.—I do desire to have a copy made.

The COURT.—A certified copy of the record.

Mr. CATLIN.—Yes.

Q. Mr. North, I am going to read from a letter from you, dated November 27th, 1907, "Office of the Commissioner, San Francisco, California. Chinese Inspector in Charge.

"As to this case, the applicant is what we call a 'raw native,' that is, he claims to be 28 years of age;

(Testimony of H. H. North.)

to have been born in the notorious Spanish Building, this city, in 1879, and at the age of one year, or in 1880, to have departed for China with his mother, where he has since resided. This departure of course, is before the beginning of our records. He picks out for a father a Chinese laborer who left this port for home about a year since; he offers in his own behalf the testimony of 3 Chinese witnesses. It is of the ordinary character in applications of this sort. By going over our files, hundreds, and probably even thousands of records may be found wherein the testimony would not vary in any material particular, and thousands of like raw natives have claimed the Spanish Building as a birthplace.”

Do you remember that?

A. Yes, sir.

Mr. CATLIN.—That portion of the record, if your Honor please, containing the testimony of the three witnesses before the Bureau, is mainly what I want to put in evidence before the Court. I do not see any reason or purpose in putting all this record in evidence. I want the testimony of those three witnesses put in evidence so that your Honor may see it, and may see that that testimony does not justify any such finding by the Commissioner, or any other finding than that it was true and uncontradicted, absolutely, and it is disbelieved, by the language of the Commissioner simply because the man was a raw native.

The COURT.—Let me understand. You offer in evidence the testimony taken before the Commissioner here.

(Testimony of H. H. North.)

Mr. CATLIN.—The testimony taken before the Commissioner here.

The COURT.—The testimony of those three witnesses.

Mr. CATLIN.—Yes.

The COURT.—And his judgment upon that.

Mr. CATLIN.—That is all I desire.

The COURT.—The only question is, who shall make the copy of the paper. You can read it into the record right here.

Mr. CATLIN.—I will make it.

Mr. CLARK.—That is agreeable, but I suggest that instead of offering the testimony of the witnesses, you offer all the testimony taken—the testimony of the applicant.

Mr. CATLIN.—Very well.

The COURT.—I want to know something about this record, when it is to be made up.

Mr. CATLIN.—We will make it up at once.

The COURT.—Read the whole thing and let the Reporter take it down.

Mr. CATLIN.—It is rather long.

The COURT.—But it has to be returned to Washington. If your client was able to pay for a certified copy, I would require him to make it. I presume he is not able to do that.

Mr. CATLIN.—We will consent that Mr. Bennett copy all this testimony into the record here.

The COURT.—Then it will be considered as in
now.

(Testimony of H. H. North.)

(The testimony referred to will be found in this record at page 24 to 35; 37 to 44; and 49 to 53.)

Mr. CATLIN.—Q. Mr. North, the absolute right of entry or denial, the granting the application, is in your hands, other than the appeal that afterwards could be taken from your judgment. I wish to ask you, after having read that language from your communication, if you gave the testimony of Chinese witnesses in a raw native case—I am speaking of no other cases but in a raw native case—if you gave the testimony of the Chinese witnesses fair and sound consideration?

A. Are you speaking of that case, or generally?

Q. I am speaking of generally, and this case in particular.

The COURT.—Q. As to this case, that is what you are to answer. A. I certainly did.

Mr. CATLIN.—I think that your Honor in examining this testimony will see that that discrepancy that I spoke of a moment ago is the only contradiction.

The COURT.—Very well. Are you through with the witness?

Mr. CATLIN.—Yes.

Cross-examination.

Mr. CLARK.—Q. The testimony in the case was taken before Mr. Montgomery, the inspector, and reduced to writing? A. That is correct.

Q. By the official stenographer of your office?

A. By an official stenographer.

(Testimony of H. H. North.)

Q. And then reviewed by you?

A. And then reviewed by me.

Q. That is the usual proceeding in the office?

A. That is the usual proceeding.

Q. You have spoken of something in the record. After the review you arrived at the opinion referred to in this case *case*, which has been mentioned by Mr. Catlin, on pages 34 and 35? A. Yes, sir.

Mr. CLARK.—We desire to have the opinion of Mr. North on pages 34 and 35 go into the record.

(The opinion of Mr. North, referred to, will be found in this record at page 60.)

Q. Did you read all the evidence, Mr. North?

A. I undoubtedly did. That is my custom, and I undoubtedly did it in that case.

Q. You also had before you, at that time, the recommendation of the inspector who had particular charge of the case, that is, Mr. Montgomery?

A. That is correct.

Q. And you reviewed that also?

A. Yes, sir.

Mr. CLARK.—We desire that that go in in connection with Mr. North's opinion. It is incorporated in the record and is the report of the inspector, made to Mr. North.

(The recommendation of the inspector will be found at pages 45 to 48; 54 to 59.)

The WITNESS.—Also the recommendation of the inspector in charge.

Mr. CLARK.—Q. After you arrived at the opinion mentioned on pages 34 and 35 of the record, was

(Testimony of H. H. North.)

any notice of the result of that opinion given to the applicant or to his attorney?

A. Given to the applicant and probably his attorney.

Q. Who was his attorney? A. Mr. Stidger.

Q. The gentleman sitting here?

A. Yes, sir.

Q. That notice was given by you, the giving of the same being required under your rules and regulations?

A. Of the Department Rules and Regulations.

Q. After that notice was given, was there any opportunity afforded for the applicant to put in further proof prior to the time his papers were forwarded to Washington?

A. Certainly. Any additional testimony they desire to produce, the witnesses would be examined and the testimony incorporated in the record.

Q. Do you know if they availed themselves of that opportunity?

A. My recollection is that they offered no additional evidence.

Q. You subsequently forwarded your opinion and the entire record to Washington?

A. Yes, sir, that is correct.

Q. To whom?

A. To the Commissioner General of Immigration.

Q. That contained all the evidence acted on by you? A. Yes, sir.

Q. And a complete record of the case?

(Testimony of H. H. North.)

A. Yes, sir.

Q. What action did the Secretary of Commerce and Labor take on the matter finally?

A. The Secretary dismissed the appeal and ordered the applicant deported to China.

Q. The dismissal of the appeal is simply a confirmation of the view that you took in the matter?

A. A confirmation of my findings.

Q. A denial of the application?

A. Yes, sir.

Q. That is the customary method in which your action is affirmed by the Department at Washington?

A. That is correct.

Q. You are holding the Chinese in this case for deportation under your order, and the final order of the Secretary of Commerce and Labor in this matter, and have turned him over to the steamship company for deportation?

A. Yes, sir.

Q. You hold him under no other authority than that, Mr. North?

A. No other authority.

Redirect Examination.

Mr. CATLIN.—Q. The only circumstances under which you allow counsel to be present at all on any of these hearings is under an amendatory rule of the Department of Commerce and Labor that has not been plead in this case?

A. Under a letter of instructions dated the 31st of May last, which permits the presence of counsel and interpreter.

Mr. CATLIN.—That rule is in our traverse, if your Honor please. That rule allows counsel to be

(Testimony of H. H. North.)

present at the examination of the witness but not of the applicant. It does not allow him to open his mouth. He can simply be present and see what goes on.

The COURT.—Call your next witness.

Mr. CATLIN.—I have four or five Chinese witnesses, three of whom were witnesses before the Bureau, and one or two who were not present before the Bureau, by whom I would like to prove that Wong See Ying is a citizen of the United States.

The COURT.—I will hear that proof after it has been determined whether he had a fair trial.

Mr. CATLIN.—In the opinion of the Supreme Court of the United States, handed down in the Chin Yow case, it was held, as I read the case, that when a citizen, or one who desires to prove his citizenship of the United States, appears in a United States Court, that the fiat of the Commissioner must necessarily fall. From the reasoning in that case, I understand that if I bring witnesses before a United States Court to prove that citizenship in a hearing of this kind, I should be given a right to do it. I desire to offer five witnesses and will take the ruling of the Court on it so that I can except. I will call their names: Wong Hing Ping; Wong Woo; Wong Sai Fung; three merchants; Wong Bew, another merchant; Wong Ock; Wong Sun Jack, a merchant of Yreka, and superintendent of a mine, and Wong Jack, a laborer in Oakland. I desire to offer those witnesses to prove that the applicant in this case is a citizen of the United States.

(Testimony of H. H. North.)

Mr. CLARK.—To which offer we object as incompetent, irrelevant and immaterial. The sole issue before the Court is whether the applicant in this case had a fair hearing. That is the ground set forth in the petition.

Mr. CATLIN.—A fair hearing in good faith.

The COURT.—I think the Court must first determine whether or not this petitioner has had his hearing such as the law contemplates before the Commissioner of Immigration. If he has had such a hearing, as a matter of course, this Court cannot go any further.

Mr. CLARK.—That is the express effect of the ruling referred to by counsel.

The COURT.—For the present, until we dispose of that branch of the case, I will not hear this testimony that you offer. That may be competent hereafter, if the Court determines that the petitioner has not had a fair hearing.

Mr. CATLIN.—Then I will except. I want to make that offer of the five witnesses, so that I can have the exception in the record in due form.

The COURT.—I simply decline to hear the testimony at present. If I reach the conclusion that the petitioner has not had the hearing before the Commissioner that the law contemplates, then, of course, that testimony will be relevant and proper.

Mr. CATLIN.—May I file with the Court in the next two days a memorandum of authorities as to

(Testimony of H. H. North.)

whether he had a fair hearing or not, as is contemplated by the law?

The COURT.—If you are not prepared to argue your case now, I have no objection.

Mr. CATLIN.—I understood that your Honor was going to determine this point first.

The COURT.—That is the very point I shall determine first. I might sit here for three weeks examining witnesses as to the citizenship of this petitioner, and after I got through with it determine it was not relevant; that the petitioner had a fair hearing before the petitioner. Is that all the testimony you have now?

Mr. CATLIN.—That is all the testimony I offer now.

The COURT.—What is the testimony on the other side.

Mr. CLARK.—I will call Mr. Montgomery.

P. F. MONTGOMERY, called for the United States, sworn.

Mr. CLARK.—Q. What was your official position in the year 1907?

A. United States Chinese Inspector and Acting Immigration Inspector.

Q. At the port and harbor of San Francisco?

A. Yes, sir.

Q. Under what official —Mr. North, Commissioner of Immigration?

A. Yes, sir.

(Testimony of P. F. Montgomery.)

Q. Do you remember a certain time of the arrival of a Chinese applicant in this port called Wong See Ying?

A. Yes, sir.

Q. He was a Chinese person, was he?

A. Yes, sir.

Q. Where did you first encounter or have any dealing with the Chinese with reference to his right to land in the United States?

A. According to regular custom, aboard of the ship—the ship that he came in on.

Q. At that time, what did you do?

A. I took a preliminary statement from him.

Q. From the Chinese?

A. From him directly through an interpreter.

Q. You had an official interpreter there?

A. Yes, sir; we always do.

Q. What occurred at that time was subsequently transcribed by the official interpreter?

A. Stenographer.

Q. And has already been introduced in evidence. It is part of the evidence at page 5 of the record?

A. Yes, sir.

Q. The object and purpose of that was what, that inquiry that you made of the Chinese at the time?

A. Ascertaining who his attorney was, and ascertaining who his witnesses were, for the purpose of having them heard.

Q. With reference to his right to land in the United States?

(Testimony of P. F. Montgomery.)

A. With reference to his right to land in the United States.

Q. Where did you make this inquiry—aboard of the vessel?

A. Aboard of the vessel as soon as it got in.

Q. On October 16th, 1907?

A. Whatever date is on that paper.

Q. The date is shown on the transcript of the testimony?

A. It is always shown.

Q. Thereafter was a hearing had for the purpose of determining whether the Chinese had a right to enter the United States?

A. That Chinaman, yes.

Q. Where was that hearing had?

A. In our office, room 78 U. S. Appraisers' Building.

Q. Do you know whether the witnesses which were there examined were the witnesses mentioned by the Chinese applicant?

A. To the best of my recollection, they were.

Q. That is your usual custom?

A. Yes, sir.

Q. You did not depart from it in any respect at this time? A. No, sir.

Q. Were the witnesses sworn at that hearing?

A. Yes, sir.

Q. The applicant sworn? A. Yes, sir.

Q. You propounded the questions through an official interpreter? A. Yes, sir.

(Testimony of P. F. Montgomery.)

Q. And had an official stenographer there?

A. Yes, sir.

Q. The testimony was subsequently transcribed?

A. Yes, sir.

Q. And is the testimony mentioned in this record?

A. Yes, sir.

Q. You yourself then rendered an opinion after an examination of these *witness* to Mr. North, did you?

A. Yes, sir.

Q. That is the opinion which is set out in this record to which reference has already been made?

A. Yes, sir.

Q. Did you at that time examine all the witnesses that were offered by this applicant? Did you deny him any right to produce witnesses at the time?

A. No, sir.

Q. You examined all the witnesses who were offered and the applicant himself?

A. I did.

Q. I will ask you whether you reviewed all the testimony offered on behalf of the applicant before you made your recommendation to the Commissioner of Immigration in this case.

A. I did; that was necessary.

Q. That is the duty imposed upon you?

A. Yes, sir.

Q. In conducting the hearings?

A. My report would not be an intelligent report if it did not.

Q. That hearing was conducted under the direction of Mr. North, as Commissioner of Immigration at the port and harbor of San Francisco?

(Testimony of P. F. Montgomery.)

A. It was. An official examination.

Q. Who was present?

A. The examining inspector; the official crew, the official stenographer and interpreter; three Government officers. The Chinese witness was present, and in that case there were no other parties present.

Cross-examination.

Mr. CATLIN.—Q. Was the applicant present at the time of the examination of his witnesses?

A. No, sir.

Q. Were the witnesses present at the time of the examination of the applicant? A. No, sir.

Q. Was the applicant notified that he had a right to be present at the time of the examination of his witnesses? A. To my knowledge, no.

Q. He was not?

A. To the best of my knowledge and belief.

Q. Were the witnesses notified that they had a right to be present at the examination of the applicant? A. They were not.

Redirect Examination.

Mr. CLARK.—Q. Do you know whether the applicant had appeared through an attorney prior to the time of the hearing? Take a look at this record. You prepared it yourself.

Mr. CATLIN.—We will admit that the applicant had an attorney.

Mr. CLARK.—Q. Had he appeared by an attorney before you prior to the time of this hearing?

A. On page 2 of the record is our regular form,

(Testimony of P. F. Montgomery.)

which is filled out by an attorney, which is called an appearance notice. We accepted that as the official appearance of the attorney on behalf of the applicant in this case. It is a matter of record that it was accepted by me as the official appearance of Mr. O. P. Stidger.

Q. And signed?

A. Signed by Mr. Stidger in his writing, which I recognize.

Q. Do you know whether Mr. Stidger knew of the fact that the hearing was to proceed in this matter?

Mr. CATLIN.—I object to that question.

The COURT.—I overrule the objection.

Mr. CLARK.—Q. Do you know whether Mr. Stidger knew of the fact that the hearing was to proceed in this matter, the hearing with reference to the right of the Chinese to land in the United States?

A. I do not see that there can be any question as to that.

Q. What is the practice in regard to the appearance of the attorney, and what notice is given him with reference to the hearing, after he appears?

A. The applicant arrives, and he evidently notifies the attorney himself through some of his friends, because the attorney appears on the scene as soon as he arrives. He is notified officially of the arrival through the bookkeeper. He takes the record from our book and the number, and he fills out this notice for the purpose of handling his end of the case.

(Testimony of P. F. Montgomery.)

Q. Do you know whether Mr. Stidger in this case offered to produce any witnesses on behalf of the Chinese other than those that you saw, and the evidence that you took? A. No, sir.

The COURT.—Q. Let me understand. Immediately after the appearance of the attorney in the case you proceeded, without giving him any notice whatever, to try the case? A. Oh, no.

Q. Do you know whether this attorney here who appeared for the petitioner was present at the examination, or whether he knew anything about it?

A. I do know in this case that he did know about the appearance, and knew who the witnesses were going to be, and arranged with me who those people were, and the day they were going to be there, which is the method in all of the cases I have handled since I have been in this port, 13 years. It is generally necessary to confer with the attorney.

Q. Then he had notice of the hearing?

A. He had.

Q. That point is covered in writing in this case.

Mr. CLARK.—Q. Let me ask you a question: The Department itself attends to the subpoenaing of the witnesses who are named on behalf of the applicant—the calling of the witnesses?

A. The examining inspector fills out a blank form of subpoena from information given him by the applicant direct. The name is given, and it is our custom to have the applicant write the name of his father or mother—whichever it is—in Chinese itself,

(Testimony of P. F. Montgomery.)

the Chinese characters for one word varying, so that it puts the exact name on the subpoena so that that party will appear.

Q. Do you have those served by a Chinese interpreter?

A. Those are served by a Chinese interpreter, a Chinaman himself familiar with the Chinese people, who explains to them in their own language.

Q. That was done in this case?

A. Yes, sir; the subpoena should be a matter of record.

Mr. CATLIN.—I am willing to admit that those subpoenas were regularly issued, and that an attorney appeared as far as he could appear under the supplemental rule of May 31st, 1907, and that he had a right to be present at the examination of the witnesses.

The WITNESS.—Your Honor asked me whether the attorney was notified. On page 18 of the record is the memorandum of the attorney in the case, which reads "In Re 192 Manchuria, a native. In answer to your request to furnish the witnesses who signed the affidavits in said cause, April 19th, 1907, as the witnesses who signed the affidavits dated October 23d, 1907, have appeared and testified. Upon investigation, I find that the witnesses who signed the affidavits of April, 1907, are the same persons who signed the affidavit of October 23d, 1907; in one instance the witness gives another name under which he is known." There was some question as to

(Testimony of H. H. North.)

whether it was the same witness who had appeared; that covers that point.

The COURT.—Q. Who signed that?

A. Mr. O. P. Stidger, the attorney of record in the case.

H. H. NORTH, recalled for the United States.

Mr. CLARK.—Q. Some mention was made of a rule that prevailed at the time of this hearing with reference to the right of an attorney to appear at the time of the examination on behalf of the applicant. What was that regulation?

A. You have, I think, there a copy of the letter. It is a letter addressed to me.

Q. I guess it is in that record.

A. It is a letter addressed to me by the Secretary of the Department of Commerce and Labor, under date, I think, of May 31st, last, which accorded the applicant the right of being represented at the hearing of all witnesses, and the applicant himself, according to my rule as well; by counsel and by interpreter; not, however, to take part in the examination of the witnesses, but for the purpose of seeing that a due and proper hearing was accorded to the applicant and his witnesses.

Q. This is a copy of that particular regulation, Mr. North, which was in vogue in your particular department at that time (handing)?

A. Yes, sir, it is a department letter. This is a carbon copy. The numbers are indistinct, I think 15053-2-C of May 31st, 1907, addressed to Commis-

(Testimony of H. H. North.)

sioner of Immigration, San Francisco, California, signed F. P. Sargent, Commissioner General, approved Lawrence O. Murray, Assistant Secretary, he being the Assistant Secretary of the Department of Commerce and Labor.

Mr. CLARK.—Mr. North is willing to have a complete copy of the record made in the case, if your Honor please. The record explains a great many of the circumstances, and we desire to offer the entire record, the original of which Mr. North has.

Mr. CATLIN.—We have no objection to that.

Mr. CLARK.—We ask that it be marked "Respondent's Exhibit 1." (The record will be found from page 24 to 64, inclusive.)

Cross-examination.

Mr. CATLIN.—Q. When an attorney appears before the Immigration Commissioner, you adhere to the ruling laid down in the letter of the 31st of May, 1907?

A. If he appears and makes a request, by the terms of that letter, I am governed by my construction of that letter.

Q. This is a strict rule, you understand. You keep the rule strictly. You do not allow an attorney any privileges that that rule does not allow?

A. I endeavor to keep attorneys within the various rules and regulations prescribed by the department, that being undoubtedly intended as a modification of the last printed rules.

(Testimony of H. H. North.)

Q. An attorney is not allowed to object to a question?

A. That letter speaks for itself, according to my recollection of the letter and interpretation of it. The intention of the letter is to assure the applicant and his witnesses of a fair hearing, of a fair interpretation; to assure them that no evidence which they wish to offer will be suppressed in any way, or modified or changed by the interpreter.

Q. I have read the rule and I know what it requires. I say under this rule or under your custom and procedure, the rule of your court there is that an attorney cannot even speak in that examination in relation to the matter before you at the time?

A. The attorney cannot ask the question, if that is what you mean. He cannot seek to draw out from the witnesses any evidence. He has a right to object that evidence is being suppressed, or that the examination is not being properly conducted. There would be no other purpose for it.

Q. Is it not the purpose of this rule that an attorney can go before the Immigration Commissioner with an interpreter only for the purpose of seeing that the questions and answers are correctly interpreted from Chinese into English, and English into Chinese, and for no other purpose?

A. No, sir, I do not so consider it.

The COURT.—I suppose the rule speaks for itself.

(Testimony of H. H. North.)

Mr. CATLIN.—I have read the rule a great many times, and I cannot determine what the attorney would be allowed under it.

The COURT.—I have no doubt he would be allowed to suggest the bringing in of other witnesses, but not to take part; not to interfere with or object to questions, or insist that other questions be asked. That is the purpose of it. He is to see that the witnesses are fully examined. If they are not, I have not any doubt but what he would have the right to request the Inspector to proceed further, and if he did not, he could take his objection to it and make it a part of the record.

Mr. CATLIN.—I do not think Mr. North will answer in that way.

Mr. CLARK.—He has already answered.

The COURT.—I have never read it, but I assume that that is it.

Mr. CATLIN.—I do not think Mr. North will confirm your Honor's idea.

The COURT.—One purpose, I suppose, is to confine the evidence to what the witnesses testify to without any suggestions from the attorney.

Mr. CATLIN.—Q. Can an attorney make a suggestion to you as to what questions you shall ask?

A. Certainly. I have always encouraged attorneys coming to me, or going to Mr. Mehan, the Chinese Inspector in Charge, as to any suggestions they have got to offer in regard to the case.

Mr. CLARK.—That is all.

Testimony closed.

Record of Chinese Bureau.

Affidavit of Wong Hong and Wong Woo.

Photograph of Wong See Ying.

State of California,

City and County of San Francisco, Cal.—ss.

The undersigned, being sworn, say each for himself, and not one for the other, that his name and address is as undersigned, and he identifies the photograph attached hereunto as a true likeness of Wong See Ying, a native-born citizen of the United States, he having been born in the City and County of San Francisco, State of California, twenty-eight (28) years ago, at a building situate on the corner of Commercial and Dupont Streets, San Francisco, Cal. That the said Wong See Ying departed for China about 1880 with his mother, where he has since continued to reside. That the father of said applicant departed for China about one year ago. That your affiant has visited the said native in China and identifies him as stated aforesaid.

That your affiant causes this affidavit to be prepared in order to facilitate the identification, travels and return to the United States of the said Wong See Ying.

Name.	Address.
Wong Hong.....	1588 Geary St.
Wong Woo.....	do

Subscribed and sworn to before me, this 19th day of April, 1907.

[Seal]

CHARLES D. O'CONNOR,
Notary Public.

**Letter Dated October 15, 1907, from O. P. Stidger to
Charles Mehan.**

San Francisco, Cal., Oct. 15, 1907.

Mr. Charles Mehan, Inspector in Charge, Chinese
Division, Immigration Service, San Francisco,
Cal.

Sir: I have been employed to represent Wong See
Ying, No. 192 ex S. S. ——— 190——, who has ap-
plied for admission at this port as a ———.

Respectfully,

O. P. STIDGER,
Attorney for Applicant.

Address.

Phone.

**Testimony on Board S. S. Manchuria, Dated October
16, 1907.**

On Board S. S. "Manchuria,"

San Francisco, Cal., Oct. 16, 1907.

#192—WONG SEE YING.

Class: Native.

Inspector: P. F. MONTGOMERY.

Interpreter: CHIN JACK.

Ex. S. S. "Manchuria," Oct. 12-07.

Stenographer: H. W. C.

Q. What is your name?

A. Wong See Ying.

(Testimony of Wong See Ying.)

Q. Who is your attorney, representative or go-between in this case?

A. My cousin, Wong Ping, of Foo Fung, 742 Washington Street, San Francisco, has charge of my case.

Q. Give me the name and address of any witnesses you may have.

A. Wong Hong and Wong Woo—both at 1588 Geary Street, San Francisco.

Sworn.

(Signed by applicant in Chinese.)

(Signed) CHIN JACK, Int.

(Signed) P. F. MONTGOMERY, Inspr.

10-19-07.

**Testimony Before Inspector Montgomery, Dated
October 23, 1907.**

Chinese Division, Immigration Service,
San Francisco, Oct. 23, 1907.

192—WONG SEE YING.

Class: Native.

Inspector: MONTGOMERY.

Interpreter: YONG KAY.

Steno: R. T. FERGUSON.

Ex. S. S. "Manchuria," Oct. 12.

Witness: WONG HONG PING, Sworn.

Q. What is your name and age?

A. Wong Hong Ping or Wong Yow Chune; 43.

Q. Where were you born?

(Testimony of Wong Hong Ping.)

A. Leung Dung village, Sun Ning district, China.

Q. When did you first come to the U. S.?

A. K. S. 3.

Q. What is your occupation?

A. Merchant of Kwong Yick Wo Co., 1538 Geary St., S. F.

(Recognizes photograph of applicant as that of Wong See Ying.)

Q. Where was he born?

A. Corner Dupont and Commercial Sts., San Francisco, in K. S. 5-5-15 (July 4, 1879).

Q. Where were you living when he was born?

A. Battery St., San Francisco.

Q. Did you know the applicant's family and did you visit them?

A. Yes; his father and I came to the United States together the first time.

Q. Did you visit the applicant's parents at the time the applicant was born?

A. Yes, I went to the family every evening.

Q. How old was the applicant at the time you first saw him?

A. Three days. I saw him at his birth place in his mother's arms.

Q. What was his father's name?

A. Wong Gen Sai or Wong Soon.

Q. What was his father's business here?

A. Working in a laundry for washing new clothes, 600 block Battery St.

Q. How long did he work there?

(Testimony of Wong Hong Ping.)

A. 4 or 5 years.

Q. Where is the father now?

A. He went to China last year, 5th month on the "Siberia" (June July, 1906). He was 61 years old then.

Q. What was he doing at the time he went away?

A. He did nothing after the fire.

Q. Was he sent back by the Chinese Government as a refugee? A. He paid his own way.

Q. What did he do at the time of the fire?

A. I was in China. I don't know.

Q. What was the applicant's mother's name?

A. Chin Shee—bound feet—54 or 55 years old.

Q. Where is the mother?

A. She went to China K. S. 6-9 on the "Peking" (Oct. Nov. 1880).

Q. Who went with her?

A. I was a boy 15 years old—I don't know.

Q. Did this woman have more than one child born to her while she was in this country?

A. No.

Q. Did her husband go to China with her?

A. No.

Q. Did the applicant go to China with her?

A. Yes.

Q. You say the applicant and his mother departed on this trip and the father did not go?

A. Yes.

Q. Has the applicant ever returned to this country until this trip?

(Testimony of Wong Hong Ping.)

A. No, this is his first trip.

Q. What has he been doing in China?

A. Going to school. After he quit school he went to the Sing Chung market and worked in a grocery store.

Q. Why is he coming to the U. S. at the age of 28 years if he is established in business in China?

A. He wanted to come back because he was born here and wanted to go in business here.

(2—192, Wong See Ying. Nat. "Manchuria," Oct. 12-07. Wit. Wong Hong Ping.)

Q. What is the exact relationship between yourself and this applicant?

A. He is the son of my uncle—my father's brother.

Q. What is your father's name?

A. Wong Sai Hawk.

Q. Your father and the applicant's father are brothers? A. Yes.

Q. What is your paternal grandfather's name?

A. Wong Han Git.

Q. Then Wong Han Git is the applicant's grandfather? A. Yes, on his father's side.

Q. What is your paternal grandmother's name?

A. Hom Shee.

Q. What is your mother's name?

A. Pong Shee.

Q. Have you any brothers or sisters?

A. No. My parents died when I was young.

Q. Have you seen the applicant in China?

(Testimony of Wong Hong Ping.)

A. I saw him K. S. 25 in Leung Dung village and also in K. S. 32. He was living with his mother. His father went home last year and they are there now. I also live in that village.

Q. Do you recall the location of the applicant's house? A. 5th alley, 2d house.

Q. How large is that village?

A. Over 50 houses.

Q. What is the nearest market?

A. Wah On, 2 li away.

Q. Are you registered?

(Produces certificate #11311, Wong Pang, laborer, Brooklyn, N. Y., Apr. 16, 1894. Photo of witness.)

Q. Have you anything further to state?

A. No.

Q. Have you understood the interpreter?

A. Yes.

(Signed in Chinese.)

(Signed) P. F. MONTGOMERY.

YONG KAY.

10-24-07.

Chinese Division, Immigration Service,

San Francisco, Oct. 23, 1907.

192—WONG SEE YING.

Class: Native.

Inspector: MONTGOMERY.

Interpreter: YONG KAY.

Steno.: R. T. FERGUSON.

Ex. S. S. "Manchuria," Oct. 12.

Witness: WONG WOO, Sworn.

Q. What is your name?

A. Wong Woo or Wong Sai Kip.

Q. How old are you? A. 50.

Q. Where were you born?

A. China, Wing Sing village, Sun Ning district.

Q. When did you first come to the U. S.?

A. T. G. 11.

Q. What is your occupation?

A. Doing nothing now. I live at Kwoon On Wah Co., 369 8th St., Oakland. Before the fire I was a member of Dung Chung Wing Co., 33 Waverly Pl.

Q. Are you registered?

A. Yes, as a laborer.

Q. For whom have you come to testify?

A. Wong See Ying.

Q. When did you see him last?

A. I went to China K. S. 15-6 on the "China" and returned K. S. 17-7 on the "Gaelic." I saw him then in Leung Dung village. I took money home from the father. I went again K. S. 25-10 on the "Nippon Maru" and returned K. S. 27-5 on the "China."

Q. Would you recognize the applicant if you saw him now? A. Yes.

Q. (Recognizes photo of applicant as Wong See Ying.)

Q. Where was he born?

A. Corner Dupont and Commercial Sts., San Francisco.

Q. When was he born? A. I don't know.

(Testimony of Wong Woo.)

Q. Where were you living at the time he was born? A. 835 Dupont St.

Q. Did you know applicant's family and did you visit them at that time?

A. I knew the father but I did not visit the family.

Q. How old was the applicant the first time you saw him?

A. At the time he started from here to go to China I first saw him and he was one or two years old.

Q. You never saw him until he departed for China at the age of one or two years? A. No.

Q. How did you happen to see him then?

A. He was going down to the wharf with his mother for a trip to China. I went down to see them off.

Q. You went down to the steamer to see the applicant off? A. Yes.

Q. How long had you known his father prior to this time? A. About two years.

Q. You had never seen the applicant before?

A. No.

Q. Are you any relation to the applicant?

A. No relation. I got acquainted with his father because I was a merchant and he ran a laundry and he came to my store for goods.

Q. Did you make a special trip down to the dock to see the applicant off? A. Yes.

Q. Did the applicant have any shaving feast held in this city?

(Testimony of Wong Woo.)

A. I did not know anything about it. If I had known of it I would have seen him then.

Q. Did you ever go down to the dock to see any other people off at this time?

A. Yes; Wong Sai Gow, who is now in Hong-kong.

Q. Is there anybody in the U. S. now whom you went down to the dock to see go away?

A. Yes; Wong Sai Fong, who is now in Kwoon On Wah Co.

Q. When did you go down to the dock to see him off?

A. Last year, 10th month.

Q. Is it your custom to go down to the dock whenever any of your friends leave this country for China?

A. Whenever I have time I go.

(2—192, Wong See Ying. Nat. "Manchuria," Oct. 12-07. Wit. Wong Woo.)

Q. What is the applicant's mother's name?

A. Chin Shee—bound feet. She is in China.

Q. When did she go?

A. K. S. 6-9 on the "Peking."

Q. Is this the time the applicant went with her?

A. Yes.

Q. Did this woman have any other children born to her in this country besides this applicant?

A. No.

Q. What is the applicant's father's name?

A. Wong Gen Sai.

Q. Where is he now?

A. He went to China K. S. 32-5 on the "Siberia" at the age of 60.

(Testimony of Wong Woo.)

Q. What was he doing at that time?

A. He was doing nothing then. Before the fire he was a laundryman in a laundry for washing new clothes, 415 Commercial.

Q. Was this man always a laundryman in this country? A. Yes; ever since I knew him.

Q. Did he have any brothers?

A. An older brother. I don't know his name.

Q. Do you know the man who just testified here?

A. Yes.

Q. Is he any relation to the applicant?

A. He is Wong Gen Sai's nephew.

Q. Have you anything further to state?

A. No.

Q. Have you understood the interpreter?

A. Yes.

(Signed in Chinese.)

(Signed) P. F. MONTGOMERY.

YONG KAY.

10-34-07.

Chinese Division, Immigration Service,

San Francisco, Cal., Oct. 24, '07.

192—WONG SEE YING.

Class: Native.

Inspector: MONTGOMERY.

Interpreter: CHIN JACK.

Steno.: R. T. FERGUSON.

Ex. S. S. "Manchuria," Oct. 12.

Witness: WONG SAI FONG, Sworn.

Q. What is your name?

A. Wong Sai Fong; age, 50.

Q. Where were you born?

A. Leung Dung village, Sun Ning district, China.

Q. When did you first come to the U. S.?

A. K. S. 4.

Q. What is your occupation?

A. Merchant of Kwoon On Wah Co., 369 8th St.,
Oakland.

Q. For whom have you come to testify?

A. Wong See Ying.

Q. When was the last time you saw him?

A. K. S. 33—1st or 2d month, in China, Leung
Dung village, Sun Ning dist.

Q. Where was he born?

A. Corner Dupont and Commercial, third floor.

Q. How old is he now?

A. 29 Chinese, born K. S. 5-5.

(Identifies photograph of applicant.)

Q. Where were you living at the time of his
birth?

A. Quong Hong Foon, 835 Dupont St., San Fran-
cisco.

Q. Did you visit the applicant's family at all?

A. Yes.

Q. How old was the applicant when you first saw
him?

A. One or two months. I saw him in my store
in his father's arms.

Q. Did you ever see him in his own home?

(Testimony of Wong Sai Fong.)

A. Sometimes when I delivered goods at the home.

Q. What was his father's name?

A. Wong Gen Sai or Wong Soon.

Q. What did the father do?

A. Wah Sing laundry, 415 Commercial St., for ironing new clothes.

Q. Where is he now?

A. He went to China K. S. 32-5 on the "Siberia." I went down to the mail dock to see him off.

Q. What is the applicant's mother's name?

A. Chin Shee—bound feet—over 50 years old.

Q. Where is the mother?

A. She went to China K. 6. I went to China K. S. 6-7 and I met her in China about two months after.

Q. Did you ever hear what ship she went on?

A. No.

Q. Did this woman have more than one child born to her in the U. S.?

A. No; the applicant is an only son.

Q. Did the applicant have a shaving feast in this city?

A. Yes. I did not attend it, because I had no time.

Q. How did you know there was a shaving feast if you did not attend?

A. I was invited. It was held in the father's room.

Q. When did the applicant go to China?

(Testimony of Wong Sai Fong.)

A. I think KS. 6, with his mother. I saw him in China in the 10th month.

Q. Has the applicant ever returned to the U. S.?

A. Never until now.

Q. What has he been doing in China?

A. He was employed in Guey Lung Co., Sin Chung market place, Sun Ning district, Chinese grocery.

Q. Is he married? A. No.

Q. Why did the applicant wait until he was 28 years old before coming to this country?

A. His mother refused to let him come to this country, and his father ordered him to come back.

Q. And they did not settle this family dispute as to whether the applicant should return to the U. S. until this year? A. No.

Q. What is he coming to this country for?

A. To work.

Q. Are you any relation to the applicant?

A. Clansman only.

Q. How far is your home from the applicant's house in China?

(2—Wong See Ying. Nat. "Manchuria." Oct. 12—07. Wit. Wong Sai Fong.)

A. Two or three blocks.

Q. Did you visit the applicant at his house?

A. Yes.

Q. Who does he live with?

A. His father and mother.

Q. How many houses in your village?

A. Forty or fifty.

(Testimony of Wong Sai Fong.)

Q. Has that village any subdivisions?

A. Yes.

Q. What is the name of your subdivision?

A. Bot Gwar.

Q. How many houses in that?

A. A little over 20.

Q. What is the name of the applicant's subdivision? A. Fung Yee.

Q. How many houses in that? A. 40 or 50.

Q. These two subdivisions together are known by what name? A. Leung Dung.

Q. How many houses in the two villages together—yours and the applicant's?

A. Over 70.

Q. Did the applicant's father have any brothers?

A. One older brother; Wong Sai Hawk. He is dead.

Q. Did Wong Sai Hawk have any children?

A. One boy, Wong Hong Ping. He is in San Francisco.

Q. Where was he born? A. China.

Q. [What is his mother's name?

A. Tom Shee, to the best of my knowledge. I am not sure.

Q. In what house and alley did the applicant live in China? A. 2d house, 5th alley.

Q. What is the nearest market?

A. Wah On, 2 li away.

Q. Have you anything further to state?

A. No.

Q. Have you understood the interpreter?

A. Yes.

(Signed in Chinese)

(Signed) P. F. MONTGOMERY.

CHIN JACK.

10—24—07

**Memorandum for Mr. Mehan, Dated October 25,
1907, from P. F. Montgomery.**

IMMIGRATION SERVICE.

OFFICE OF THE COMMISSIONER.

San Francisco, Cal., Oct. 25, 1907.

**MEMORANDUM FOR MR. MEHAN (Stidger &
Stidger, Attys.)**

In re Wong See Ying, native, No. 192, ex. S/S
“Manchuria, Oct. 12, 1907, I have to state as follows:

In compliance with your instructions I have to
state that I cannot proceed further with the above
case until the photograph of witnesses Wong Hong
and Wong Si Fon are furnished this office.

Respectfully,

P. F. MONTGOMERY,

Chinese Inspector.

M/

Affidavit of Wong Hong and Wong Si Fon.

Photograph of Wong Hong Sing.

Attached Oct. 28/07.

P. F. Montgomery, Chinese Inspector.

State of California.

The undersigned, being sworn, say, each for him-
self, and not one for the other, that his name and

address is as undersigned; that he identifies the photograph attached hereunto as a true likeness of himself; that he identifies the applicant, Wong See Ying, an applicant, No. 192 S. S. "Manchuria," as a native-born citizen of the United States, he having been born in the City and County of San Francisco, State of California, and having departed therefrom many years ago; that your affiant has seen the said native in China and identifies him as aforesaid.

Names:

Address:

Wong Hong.....1538 Geary St., S. F.

Wong Si Fon.....369 — 8th St., Oakland.

Subscribed and sworn to before me this 23 day of October, 1907.

[Seal]

CHARLES D. O'CONNOR,

Notary Public.

Affidavit of Wong Hong and Wong Si Fon.

Photograph of Wong Si Fon.

Attached Oct. 28/07.

P. F. Montgomery, Inspector.

State of California.

The undersigned, being sworn, say, each for himself, and not one for the other, that his name and address is as undersigned; that he identifies the photograph attached hereunto as a true likeness of himself; that he identifies the applicant, Wong See Ying, an applicant No. 192 S. S. "Manchuria," as a native-born citizen of the United States, he having been born in the City and County of San Francisco, State of California, and having departed therefrom many

Wong See Ying vs.

years ago; that your affiant has seen the said native in China, and identifies him as aforesaid.

Names: Address:

Wong Hong.....1538 Geary St., S. F.

Wong Si Fon.....369 — 8th St., Oakland.

Subscribed and sworn to before me this 23 day of October, 1907.

[Seal]

CHARLES D. O'CONNOR,
Notary Public.

**Testimony Before Inspector Montgomery, Dated
November 12, 1907.**

Chinese Division, Immigration Service,

San Francisco, November 12, 1907.

#193—WONG SEE YING.

Class: Native.

Inspector: P. F. MONTGOMERY.

Interpreter: YONG KAY.

Stenographer: ANNA OSSWALD.

Ex S. S. "Manchuria," Oct. 12, 1907.

APPLICANT.

Q. What is your name?

A. Wong See Ying.

Q. How old are you? A. 28.

Q. When were you born? A. K. S. 5-5-15.

Q. Where?

A. Spanish Building, San Francisco. My mother didn't tell me the name of the street. She only said near Commercial street.

Q. Don't you know the location of the place in which you were born?

(Testimony of Wong See Ying.)

A. My mother told me it was in the Spanish Building.

Q. How long did you live at that number after you were born?

A. Until I went to China when I was 2 years old.

Q. What is your father's name?

A. Wong Han Si.

Q. What other name did he have?

A. Wong Soon is his birth name.

Q. What is his business in this country?

A. Tailor, making new clothes with the sewing-machine.

Q. Where was the tailoring establishment located? A. He didn't tell me.

Q. Where is your father now?

A. He went to China the 6th month of last year (July or August, 1906).

Q. How old was your father when he went away?

A. 61. He is 62 now.

Q. Where was he living at the time he went away?

A. I don't know. My father didn't tell me.

Q. Do you know what boat he went on?

A. I don't know; he didn't tell me.

Q. What was your mother's name?

A. Chin Shee.

Q. What kind of feet did she have?

A. Bound feet.

Q. How old is she now? A. 55.

Q. Where is she? A. In China.

Q. When did she go to China?

(Testimony of Wong See Ying.)

A. She went to China with me when I was 2 years old.

Q. What year, month and day was it?

A. K. S. 6-9-17, on the "Peking" (October 20, 1880.)

Q. How do you know it was the "Peking"?

A. My mother told me.

Q. Do you have any brothers or sisters?

A. No.

Q. What have you been doing in China?

A. I was porter in the Guey Sin store at Sun Chong Fow.

Q. Were you engaged up to the time you started for this country?

A. Yes, I started soon after resigning from work.

Q. Are you married? A. No.

("Manchuria," Oct. 12, 1907. Applicant.—2—)

Q. Why have you waited until you were 28 years old to come back to the United States if you were born in this country?

A. Several years ago I wrote to my father about coming back to this country, and he told me not to come so soon, and therefore I waited until this date.

Q. Why did he tell you not to come so soon; what reason did he assign?

A. He didn't give any reason, though he stated that there was no hurry about my coming.

Q. Can you write a letter? A. Yes.

Q. Did you write the letter to your father yourself, asking if you could come to this country?

(Testimony of Wong See Ying.)

A. Yes, wrote it myself.

(Applicant is shown Chinese writing and read same.)

Q. Is there anybody in this country at the present time who knows that you were born here?

A. I don't know. I remember that there is one Wong Sai Fong by name, several years ago, when he returned to China, and my father sent some money by him to our family, but I don't know where he is now.

Q. Do you remember testifying before me on the steamer? A. I could not remember.

Q. Is that your signature? (Showing signature of applicant on statement made on October 16, 1907.)

A. Yes, that is my signature.

Q. You did testify before me on the steamer?

A. I was afraid to lift up my head and look at you, and if I did perhaps I could recognize you.

Q. Why were you afraid to lift your head up?

A. I was examined but a few words when I went in and bowed my head, and I didn't lift my head.

Q. Why were you afraid?

A. I made a mistake by saying I was afraid.

Q. Then you were not afraid and nobody has frightened you?

A. No, I was not afraid. I made a mistake.

Q. Do you remember me now?

A. Yes, I can recognize you now.

Q. I asked who your witnesses were, and you gave me the names of three people. What were the names of the three people?

(Testimony of Wong See Ying.)

A. Wong Ping, Wong Hong, Wong Woo.

Q. Has Wong Sai Fong appeared at this office and testified in this case? A. I don't know.

Q. How do you happen to mention Wong Sai Fong now if you did not mention him on the steamer?

A. Because I was not asked.

Q. Did you know about Wong Sai Fong at the time I asked you? A. Yes.

Q. You were asked (reading from original statement of applicant October 16, on board "Manchuria"), "Give me the name and address of any witness you may have," and you replied, "Wong Hong and Wong Woo—both 1588 Geary St., San Francisco." Do you know a Chinese person by the name of Wong Hong Ping?

A. Yes, he is a clansman of mine.

Q. What is his exact relation to you?

A. His father and my father are brothers.

Q. What is his father's name?

A. Wong Si Hawk.

Q. What is your paternal grandfather's name?

A. Wong Han Git.

(192, "Manchuria," Oct. 12, 1907. Applicant—3—)

Q. What is your paternal grandmother's name?

A. Hom Shee.

Q. What is the name of Wong Hon Ping's mother? A. Pong Shee.

Q. Has Wong Hong Ping got any brothers or sisters? A. No.

Q. Are his parents living?

(Testimony of Wong See Ying.)

A. They died long ago. I have never seen them.

Q. Have you seen Wong Hong Ping in China?

A. Yes.

Q. Where does he live? A. In our village.

Q. What is the name of the village?

A. Fung Yee village. The same village has several names, new village Sin Tun and Sun Chuey village.

Q. Are you positive now that that village has no other name? A. I am positive.

Q. Did you ever hear of the Leung Dung village?

A. No.

Q. Never heard of that village? A. No.

Q. How do you account for the fact that Wong Hong Ping says you live in that village with your mother?

A. That is a general name of that place.

Q. Did you ever hear this name before?

A. That name has always been known to me.

Q. Why didn't you give it, then, when I asked you? A. I did state it.

Q. Does that name refer to the particular village in which you live or to the locality?

A. The locality.

Q. How large is the village in which you live?

A. 40 or 50 houses.

Q. What house and what alley do you live in?

A. 5th alley, 2d house.

Q. Is there a market-place in that village?

A. Wah On Market 3 or 4 lis from there.

(Testimony of Wong See Ying.)

Q. When was the last time you saw Wong Hong Ping?

A. The first part of the 12th month, last year, in our house.

Q. Did you see him before that?

A. Yes, at the time when he came home from abroad. I could not remember when it was, it has been so long.

Q. About when was it?

A. I didn't keep his trip to China in my mind.

Q. Whose photograph is that?

A. Wong Hong Ping.

(Correctly identifies photograph.)

Q. Who is that? (Showing photograph of Wong Sai Fong.)

A. Wong Sai Fong.

Q. Have you ever seen Wong Woo?

A. I saw him about K. S. 15 or 16.

Q. Where did you see him?

A. In our house when he returned to China and delivered some money to our family from my father.

Q. What village was that?

A. Fung Lee village. Wing Sing is Wong Woo's village.

Q. Why are you coming to the United States now?

A. Because my father came home to China last year and he asked me to come.

(193 Manchuria, Oct. 12, 1907. Applicant.—3—)

Q. What are you going to do? What did he ask you to come for?

(Testimony of Wong See Ying.)

A. Learning mercantile business.

Q. With whom?

A. I don't know yet until I land and see Hong Ping about it.

Q. Does your father intend to return to the United States?

A. I don't know about that. He is over 60 years old now.

Sworn.

(Applicant signed in Chinese characters.)

(Signed) YONG KAY,

Interpreter.

(Signed) MONTGOMERY,

Inspector.

Transcribed November 12, 1907.

Report Dated November 13, 1907, from P. Frank Montgomery, Chinese Inspector to Inspector in Charge.

DEPARTMENT OF COMMERCE AND LABOR,
IMMIGRATION SERVICE.

Office of Chinese Inspector,

San Francisco, Cal., November 13, 1907.

Inspector in Charge, Chinese Division, Immigration Service, San Francisco, California.

Sir: In re Wong See Ying, Native, 192, Ex-S.S. "Manchuria," October 12, 1907, I have to report as follows:

The statement of the applicant and two Chinese witnesses has been taken. The testimony is briefly as follows:

Applicant states (pages 12, 13, 14 and 15 of the record) that his name is Wong See Ying; that he is 28 years of age; that he was born K.S. 5-5-15 (July 4, 1879) in the Spanish Building; that he does not know what street it is on: that he heard it was near Commercial Street; that he went to China when he was 2 years old; that his father's name is Wong Han Si, alias Wong Soon; that his father was a tailor "making new clothes on a sewing-machine"; that he does not know where the tailoring establishment was located; that his father went to China in July or August of last year at the age of 61; that he does not know what boat he went on; that his mother's name is Chin Shee; that she has bound feet; that she is 55 years of age; that his mother went to China October 20, 1880, on the "Peking"; that he has no brothers and sisters; that he has been working in a store at Sung Chong Fow; that he is not married; that he can assign no particular reason for his not coming to this country until he was 28 years old; that he knows Wong Sai Fong, who saw him in China; that Wong Ping, Wong Hong and Wong Woo also know him; that Wong Hong Ping is a clansman of his and that their fathers are brothers. Note: The balance of statement is cross-examination on the foregoing.

Witness Wong Hong Ping states that he is 43 years of age; a native of China; first came to the United States in K.S.3; that he is a merchant, and that he recognizes photograph of applicant; that he knows that applicant was born in this country, because he visited applicant's family every evening;

that he first saw the applicant when he was three days old; that the applicant's father's name is Wong Gan Si, alias Wong Soon; that said alleged father was
(192 Manchuria, Oct. 12, 1907—2—)

employed in a new clothing laundry in the 600 block on Battery Street; that he worked there four or five years; that alleged father went to China last year at the age of 61 in June or July on the "Siberia": that applicant's mother's name is Chin Shee; that she has bound feet; that she is 54 years of age; that she went to China in K.S. 6-9 (October or November, 1880) on the "Peking"; that applicant had no brothers and sisters born in this country; that applicant went to China with his mother; that applicant went to school in China and afterwards worked in a grocery store; that he is applicant's cousin; that his father and applicant's father are brothers; that he is (witness) registered and produces certificate No. 11311.

Witness Wong Woo states that he is 50 years of age; a native of China; first came to the United States T. G. 11; that he has no employment at the present time; that he has been a laborer; that he recognizes the photograph of the applicant; that he last saw the applicant in China in K. S. 27; that applicant was born at the corner of Dupont and Commercial Streets, San Francisco; that he does not know when applicant was born; that the applicant was 2 years old when he first saw him, at which time he departed for China with his mother; that witness went down to the wharf to see them off; that the applicant had no brothers or sisters born in this country; that ap-

plicant's mother was named Chin Shee; that she had bound feet; that she went to China in K. S. 6—9 on the "Peking"; that applicant's father went to China on the "Siberia" in the 5th month of last year; that applicant's father had an older brother, and that this older brother is the father of witness Wong Hong Ping.

This is a "raw" native case. Applicant went to China, according to his claim, at the age of two years in 1880, and consequently knows nothing about this country. There are no records for the year 1880, as will be seen by page 17 of the record. The departure of the father (alleged) for China on the "Siberia" in July of last year is not verified by our records. A similar name appears on the record, but in the absence of any photograph of the party departing or any means of identification of such person, it is difficult, and in fact impossible, to give such evidence any weight. The testimony contains several contradictions, one of the principal of which is the reference to the occupation of the applicant's father in this country. The father, according to the witnesses, was employed

(192, "Manchuria," Oct. 12, 1907—3—)

as a laundryman in a new clothes laundry, and the applicant evidently got mixed up on his story for he stated (see page 12 of the record) that he was a tailor, making new clothes with a sewing-machine.

In view of the foregoing, and without going any further into this case, I recommend that the applicant be denied, on the ground that he has produced no evidence except his own statement that he was

born in this country. As he is 28 years of age and was engaged at manual labor in his own country until he decided to come here, this is an additional fact in his disfavor.

Respectfully,
P. FRANK MONTGOMERY,
Chinese Inspector.

AMO.

Additional Statement of Wong Sai Fon.

Chinese Division, Immigration Service,

San Francisco, Nov. 15, 1907.

192—WONG SEE YING.

Class: Native.

Inspector: MONTGOMERY.

Interpreter: J. H. GUBBINS.

Steno.: R. T. FERGUSON.

Ex. S. S. "Manchuria, Oct. 12, 1907.

Additional Statement of WONG SAI FONG—
sworn.

Q. What is your name?

A. Wong Sai Fong.

(Witness presents certificate of residence #90,939, issued to Wong King; person other than laborer; residence, 203 Ferguson alley, Los Angeles, Cal.; occupation, grocer; age, 37; issued Apr. 3, 1894, at Los Angeles, signed O. M. Welborn, per Clyde, First District, California. The photograph thereon is a likeness of the witness.)

Q. How many times have you been to China?

A. Four times: first trip K. S. 6-8—I don't remember the steamer—returning K. S. 7-3 on the

“Peking,” under the name Wong King; occupation at that time, porter in the store of Quong Hong Fung Co., 835 Dupont St., San Francisco.

Q. How old were you in K. S. 6?

A. I don't remember. I am 50 now.

Q. When was your second trip?

A. K. S. 15-10 on the “Arabic,” returning K. S. 16-9 on either the “Gaelic” or the “Doric,” under the name Wong King, merchant of Doo Woon Lee Co., Los Angeles, Ferguson alley. The numbers have changed since. It was then known as “Nigger Alley”—the name has been changed; next trip: K. S. 22-10—I think on the “Doric”—returning K. S. 23-6 on the “Gaelic,” under the name Wong King, as a merchant of Yuen Wo Co., 203 Ferguson alley; next trip K. S. 32-10-6 on the “Korea,” returning K. S. 33-6 latter part of the month on the “Mongolia,” under the name Wong Sai Fong, merchant of Kwoon On Wo Co., 369 8th St., Oakland.

(Signed in Chinese.)

(Signed) P. F. MONTGOMERY.

J. H. GUBBINS.

11-16-07.

Memorandum Relative to Wong Woo.

Chinese Division, Immigration Service,

San Francisco, Nov. 15, 1907.

192—WONG SEE YING.

Class: Native.

Inspector: MONTGOMERY.

Steno.: R. T. FERGUSON.

Ex. S. S. “Manchuria,” Oct. 12, '07.

Memorandum.

WONG WOO—Certificate of Residence.

This witness failed to appear, but sent to this office, through the attorney in the case, his certificate of residence:

No. 38456, issued to Wong Woo; laborer; occupation, cook; residence, 203 Ferguson alley, Los Angeles. Date of issue, Mar. 1, 1894, at Los Angeles. Signed, O. M. Wellborn, per N. M. Quirolo, first district of California. Photograph thereon is a likeness of the person who testified at this office Oct. 23, under the name of Wong Woo.

(Signed) P. F. MONTGOMERY.

11-16-07.

Additional Statement of Wong Hong Ping.

Chinese Division, Immigration Service,

San Francisco, Nov. 15, 1907.

192—WONG SEE YING.

Class: Native.

Inspector: MONTGOMERY.

Interpreter: J. H. GUBBINS.

Steno.: R. T. FERGUSON.

Ex. S. S. "Manchuria," Oct. 12, 1907.

Additional Statement of WONG HONG PING—
sworn.

Q. What is your name?

A. Wong Hong Ping.

Q. Have you certificate of registration?

A. Yes.

(Produces certificate No. 11311, issued to Wong Pang; laborer; residence, 211 S. 5th St., Brooklyn,

(Testimony of Wong Hong Ping.)

N. Y.; occupation, laundryman; date of issue, Apr. 16, 1894, at Brooklyn, N. Y. Signed, Ernst Nathan, first district of New York. The photograph thereon is a likeness of the witness.)

Q. How many times have you been to China?

A. Two times; first trip K. S. 30-7 on an "Empress" steamer from Vancouver, via Richford, Vt.

Q. What was your occupation at that time?

A. Laundryman, in Boston.

Q. When did you return?

A. K. S. 31-5 or 6 month via Vancouver on an "Empress" steamer, under the name Wong Ping.

Q. Where did you enter the U. S.?

A. Richford.

Q. Did you not state to me October 23, that you saw the applicant in China in K. S. 25?

A. No.

Q. When did you go to China the next time?

A. K. S. 32-2-27 on the "Korea," returning K. S. 33-1-24 on the "Mongolia" as a laborer of Boston, under the name Wong Ping.

(Changes.) I wish to change my statement about my first trip; I went to China the first time K. S. 27-7 on an "Empress" steamer via Vancouver and returned K. S. 26-6 on an "Empress" steamer via Vancouver, the port of entry into this country being Richford, under the name Wong Ping, laborer, of Boston. I did not make any trip in K. S. 30. My first statement is not right and I did not remember correctly.

Q. Are you positive that these are the only trips you have made to China—K. S. 25 and K. S. 32?

A. Yes.

(Signed in Chinese.)

(Signed) P. F. MONTGOMERY.

J. H. GUBBINS.

11-16-06.

**Supplemental Report of P. Frank Montgomery,
Chinese Inspector, to Inspector in Charge,
Dated November 21, 1907.**

DEPARTMENT OF COMMERCE AND LABOR,
IMMIGRATION SERVICE.

Office of the Commissioner,

San Francisco, Cal., November 21, 1907.

Inspector in Charge, Chinese Division, San Francisco, Cal.

Sir: In re Wong See Ying, native, #192, ex. S. S. "Manchuria," October 12, 1907, and supplemental to my report of November 13, I have to state as follows:

This case was returned to me with verbal instructions to verify the trips of witnesses to China, which bore on the case, to obtain the numbers of the certificates of residence and to obtain the photographs of the several witnesses. With regard to the foregoing I have to state: The first trip of the witness, Wong King, alias Wong Sai Fon, cannot be verified because the records do not cover the date for this trip, to wit, 1880-81 (see p. 25 of the record). The second trip of witness, Wong King, is verified by the records (p. 25 of the record). The third trip

of witness, Wong King, is verified by the records (see p. 26 of the record). The fourth trip of this witness was made under the name Wong Sai Fon, and is verified by the records (see p. 26 of the record). With regard to the trips of witness, Wong Woo, the records verify his first trip and his second trip (see p. 27 of the record). With regard to the trips of the witness, Wong Hong Ping, the records verify the second trip of this witness (see p. 27 and 28 of the record).

(2 Wong See Ying. 192 Nat. Nov. 21-07.)

The first trip of this witness was made from Vancouver via Richford, Vt., and cannot be verified by the records at this office. This trip was made, according to the witness, in August or September, 1899, on an "Empress" steamer. The return from said trip was made via Vancouver in June or July, 1900.

The certificate of residence of the several witnesses in the case are referred to in detail on pages 19, 20 and 21 of the record, as I have examined same and entered a transcript of the face of each in the record.

With regard to the photographs of the several witnesses: The photograph of witness, Wong Sai Fon, has been obtained and attached to the affidavit of Wong Sai Fon on page 10 of the record. The photograph of witness, Wong Hong Ping, has been obtained and attached to the affidavit of Wong Hong Ping on page 11 of the record. A pencil memorandum attached to page 1 of the record and marked "1 A," shows that the attorney in the case was requested on the 15th instant to produce a photograph of witness, Wong Woo. This has not been done and I am

turning in the case in compliance with my instructions with the memorandum referred to covering this point.

Respectfully,

P. FRANK MONTGOMERY,

Chinese Inspector.

RTF.

Letter Dated November 26, 1907, from Charles Mehan, Chinese Inspector in Charge, to Commissioner of Immigration.

DEPARTMENT OF COMMERCE AND LABOR,
IMMIGRATION SERVICE.

Office of the Commissioner,

San Francisco, Cal., Nov. 26, 1907.

Commissioner of Immigration, San Francisco, Cal.

Sir: Herewith I hand you with my recommendation of denial the record in the case of Wong See Ying, an alleged native, No. 192 ex. S. S. "Manchuria," October 12, 1907.

Respectfully,

CHARLES MEHAN,

Chinese Inspector in Charge.

J. E. G. —

CT.

Enc.

**Supplemental Report of Chinese Inspector in
Charge, Dated November 26, 1907.**

DEPARTMENT OF COMMERCE AND LABOR,
IMMIGRATION SERVICE.

Office of the Commissioner,

San Francisco, Cal., November 26, 1907.

Inspector in Charge, Chinese Division, Immigration
Service, San Francisco, California.

Sir: In re Wong See Wing, Native, No. 192 ex.
S. S. "Manchuria," October 12, 1907, and supple-
mental to my report of the 13th instant, I have to
state as follows:

I beg to acknowledge receipt of your verbal cor-
rection of my report of the 13th instant with regard
to my not having adverted to the testimony of but
two witnesses, whereas I should have stated the fact
in the case that three witnesses had been taken. The
witnesses to whom I referred were Wong Hong Ping
and Wong Woo. Their statements, together with
that of the applicant, were alluded to and briefed in
the usual form. I omitted, through a clerical error,
owing, no doubt, to the volume of work I was hand-
ling at the time, to refer to the testimony of witness,
Wong Sai Fong, who testified at this office on Octo-
ber the 24th, and whose testimony appears upon
pages 8 and 9 of the record. In my report of the
21st instant, however, I carefully went over the testi-
mony of this witness, as will be seen by a reference
to pages 29a and 29b, the particular point of this wit-
ness' testimony being whether or not he had seen the

applicant in China at certain times stated by himself.

(192. "Manchuria," Oct. 12, 1907.)

2.

A brief résumé of the testimony of Wong Sai Fong is as follows:

Witness Wong Sai Fong states (pages 8 and 9 of the record), that he is 50 years of age, a native of China, and that he first came to the United States in K. S. 4; that he is a merchant of Oakland at the present time and that he appears to testify for the applicant, Wong See Wing, whom he last saw in China K. S. 33, 1st or 2d month (February, March of April, current year), and whose photograph he identifies; that he knew the family of the applicant and visited them; that he saw the applicant first at the age of 1 or 2 months in his (witness') store in applicant's father's arms; that he also saw him upon the occasion of delivering goods at the home of applicant's father; that applicant's father was named Wong Gen Sai alias Wong Soon; that applicant's father was engaged at 415 Commercial Street as an ironer of new clothes in the Wah Sing laundry, that said alleged father went to China K. S. 32-5 on the "Siberia" (June-July, 1906), and he knows this fact for he went to the dock to see him depart; that applicant's alleged mother was known as Chin Shee; that she was a bound-footed woman and is now over 50 years of age; that she departed for China in K. S. 6 (1880); that he saw her in China in the 10th month of that year (November-December, 1880); that the applicant was the only child born to this

woman in this country; that he did not attend the shaving feast of the applicant because he did not have time to do so; that applicant was employed in China in the firm of Guey Lung & Co., Sin Chung market place, Sun Ning District; that applicant is not married; that applicant is 29 years of age according to Chinese reckoning, having been born in the 5th month of K. S. 5 (June-July, 1879); that applicant was refused permission to come to this country by his mother, but that his father overruled his mother and insisted on his coming; that applicant is coming to this country for the purpose of securing work; that he is a clansman and no nearer relation to the applicant; that he lives in the same village in China as the applicant, or more particularly, in the Bot Gwar subdivision of the Leung Dung village, Sun Ning District; that the applicant's father had an older brother named Wong Sai Hawk, who is now dead; that said Wong Sai Hawk has one son named Wong Hong Ping, who is at the present time in San Francisco; that said Wong Hong Ping's mother's name was Tom Shee to the best of witness' knowledge; that the applicant lived in the 2d house in the 5th alley of the Leung Dung village in China; that the market-place in this village is known as the Wag On, which is 2 lis away.

Regretting that even the pressure of work should have caused an oversight of this character, I here-

with transmit the above, as it will, I believe, leave the record complete.

Respectfully,

P. FRANK MONTGOMERY,

Chinese Inspector.

AMO.

**Letter, Dated November 27, 1907, from H. H. North
to Chinese Inspector in Charge.**

DEPARTMENT OF COMMERCE AND LABOR,
IMMIGRATION SERVICE.

5265-C.

Office of the Commissioner,

San Francisco, Cal., Nov. 27, 1907.

Chinese Inspector in Charge, San Francisco.

Sir: Herewith please find record in re Wong See Ying, an alleged native, No. 192, ex. S. S. "Manchuria," Oct. 12, 1907, bearing your recommendation of denial of the 26th instant, on which date it was necessary to send the record back in order that Insp. Montgomery should properly be informed of his duties, he having omitted entirely from his report the testimony of one of the witnesses.

In his corrected report on pages 31 and 32 of the record, he attempts to justify this carelessness on the ground of pressure of overwork, etc. I wish you to give him to understand that in doing his work he will be required at all times to do it properly and that the excuses he offers will not be accepted.

It is also noted that the case had to be sent back for re-examination as he failed to inquire of two of the witnesses the numbers of their certificates of resi-

dence, which he had omitted to procure in the original examination; this is also carelessness which will not be excused in the future.

As to this case, the applicant is what we call a "raw native," that is, he claims to be 28 years of age; to have been born in the notorious Spanish Building, this city, in 1879, and at the age of one year, or in 1880, to have departed for China with his mother, where he has since resided. This departure, of course, is before the beginning of our records. He picks out for a father a Chinese laborer who left this port for home about a year since; he offers in his own behalf the testimony of 3 Chinese witnesses. It is of the ordinary character in applications of this sort. By going over our files, hundreds, and probably even thousands, of records may be found wherein the testimony would not vary in any material particular, and thousands of like raw natives have claimed the Spanish Building as a birth place.

The evidence is wholly unconvincing, and I believe that I am neither arbitrary nor unfair in rejecting it entirely. Personally, I feel that the evidence does not prove in any respect that this applicant was ever here before, much less that he is a native.

Under the circumstances, there is nothing for me to do but to order a denial of the application, which is consequently hereby done. You will of course acquaint him with his right to appeal, etc.

Respectfully,

H. H. NORTH,
Commissioner.

**Dismissal of Appeal of Wong See Ying, Before
Bureau of Immigration.**

**DEPARTMENT OF COMMERCE AND LABOR,
BUREAU OF IMMIGRATION.**

Washington, January 17th, 1908.

#14,610/353-C.

Immigration Service, San Francisco, Cal.

Appeal Wong See Ying dismissed.

MURRAY.

Attest: (Signed) LAWRENCE O. MURRAY,

Assistant Secretary.

4 Inclosures #6157:

Affidavit Wong Hong and Wong Woo.

2 " " " and Wong Si Fon.

Picture Wong Woo.

**Memorandum for Acting Secretary (Department of
Commerce and Labor).**

DEPARTMENT OF COMMERCE AND LABOR.

No. 14,610-C 1353.

Dec. 28, 1907.

In re WONG SEE YING—Alleged Native.

Memo. for the Acting Secretary:

It is claimed that the appellant was born in San Francisco, K. S. 5-5 (July 4, 1879); was taken to China by his mother K. S. 6-9, where he has since resided; and that his father remained here until last year.

As records of departures were not kept in 1880, the departure of mother and son cannot be verified or dis-

proved. It is the practice in a great majority of cases of this character to account for the mother in this way. There is a record of the departure of a man who is claimed as the father. It is the opinion of the Bureau that this man has been selected for the occasion, and that he is not the father of appellant, this conclusion being reached after reading the testimony of appellant. He states that his information about his birth was given him by his mother, although his father only returned to China a year ago and would unquestionably be better qualified to tell him about San Francisco. Furthermore, he knows absolutely nothing about his father's life in this country except that he was a "tailor, making new clothes with the sewing-machine," while the witnesses testify that he was a laundryman in a new clothes laundry. It is not reasonable to suppose that if the father had returned to his home from a foreign country that he would not have told his family of his life.

The applicant is coming to his cousin who hails from the same village in China from which he only returned a few months ago. It is more than likely that the case was concocted at that time. This witness, Wong Hong Ping, although only 13 years older than appellant, claims to have been living in San Francisco for two years prior to the alleged birth; to have seen the baby when it was only 3 days old in its mother's arms, etc. It is hardly probable that a boy 10 or 11 years old would have come to this country without his family, and in support of this presumption the records of this office show that at the time of registration this man swore that he first ar-

rived in July, 1880, or only about three months prior to the time it is claimed that appellant was taken to China. As there was no reason at that time to misstate facts and his memory 13 years ago must have been as reliable as to-day, the necessary conclusion is that the man is falsely testifying.

The testimony of the witness Wong Woo is about on a par with that of the first witness. For instance, he testifies that he knew the father but never visited him and did not know the mother and never saw the baby until they were on the way to the wharf, and notwithstanding this he states that he went to the wharf to see them off. It is most unlikely that a merchant would leave his store to go to see the wife and baby of a laundryman who were strangers to him, off.

In the opinion of the Bureau this case is undoubtedly fraudulent, in view of which it is recommended that the appeal be dismissed.

F. P. SARGENT,
Commissioner General.

Jan.16. '08.

Del. d.

L. O. M.

[Endorsed]: Filed March 3, 1908. Jas. P. Brown,
Clerk. By Francis Krull, Deputy Clerk.

*In the District Court of the United States, Northern,
District of California.*

No. 13,751.

In the Matter of WONG SEE YING on Habeas
Corpus.

Opinion of District Court.

DeHAVEN, District Judge.—I am not able to find from the evidence that H. H. North, the Commissioner of Immigration at the port of San Francisco, failed to give to the said Wong See Ying when he applied to be permitted to land at San Francisco, upon coming into that port from the Empire of China, such a hearing, as he was entitled to under the law, as declared in *U. S. vs. Ju Toy*, 198, U. S. 253, and the more recent case of *Chin Yow vs. the United States*; or that in denying the right of said Wong See Ying to land at the port of San Francisco, said H. H. North acted arbitrarily or unreasonably.

The only fact which has the tendency to sustain the allegations of the petition upon this point is that the Immigration Commissioner did not accept, as true, the sworn statements of witnesses in behalf of Wong See Yin's right to land. But under the ruling in the case of *Chin Yow vs. the United States* above cited, this is not sufficient upon which to base a finding that the applicant was denied a fair hearing by the Commissioner of Immigration.

For these reasons, the writ will be discharged and the said Wong See Ying remanded to the custody whence he was taken.

So ordered.

[Endorsed]: Filed Febry. 28, 1908. Jas. P. Brown, Clerk. By Francis Krull, Deputy Clerk.

*In the District Court of the United States, in and
for the Northern District of California.*

In the Matter of WONG SEE YING, on Habeas
Corpus.

Petition on Appeal.

To the Honorable JOHN J. DeHAVEN, Judge of the
District Court of the United States, in and for
the Northern District of California.

Wong See Ying, feeling himself aggrieved by the
order and judgment of this Court, made and enter-
ed on this 28th day of February, A. D. 1908, remand-
ing Wong See Ying to the custody from whence he
came, does hereby appeal to the Circuit Court of
Appeals for the Ninth Circuit from said order, judg-
ment and decree, and from each and every part there-
of; and *that he* prays that this petition for his said
appeal may be allowed, and that a transcript of the
record, proceedings and papers upon which said
judgment and order was made and entered, duly au-
thenticated, may be sent to the United States Circuit
Court of Appeals for the Ninth Circuit. And peti-
tioner further prays that the custody of said Wong
See Ying be not disturbed or changed during the
pendency of this appeal unless by order of this Court
or of the Appellate Court.

Dated the 3d day of March, A. D. 1908.

JOHN C. CATLIN,

Attorney for Petitioner.

STIDGER & STIDGER.

Of Counsel.

[Endorsed]: Filed in open Court March 7, 1908. Jas. P. Brown, Clerk. By Francis Krull, Deputy Clerk.

In the District Court of the United States, in and for the Northern District of California.

In the Matter of WONG SEE YING on Habeas Corpus.

Assignment of Errors.

Now comes Wong See Ying and files the following assignment of errors upon which he will rely on his appeal this day taken from the order and judgment made and entered by this Court on February 28th, 1908, remanding Wong See Ying to the custody from which he came

I.

That the said District Court erred in this, to wit, that it appears from the papers and pleadings, evidence, proofs and files herein, that the said Wong See Ying was ordered returned to China by the Commissioner of Immigration for the Northern District of California without the hearing contemplated by law; that said District Court of the United States wrongfully refused to hear and consider the application of said Wong See Ying, and his right to be and remain in the United States of America because a native-born citizen thereof; that the said Commissioner of Immigration aforesaid acted without jurisdiction, and the District Court of the United States erred in refusing to entertain jurisdiction of said matter, and to hear and consider, determine and de-

creed the right of said Wong See Ying to enter, be, and remain in the United States as a citizen of thereof; and that the said order, judgment and decree remanding said Wong See Ying to the custody from whence he was taken did deprive said Wong See Ying of his personal liberty without due process of law.

II.

That the said District Court erred in refusing to hear or consider the offer on behalf of said Wong See Ying, made at the hearing before said District Court to establish the right of the said Wong See Ying to be and remain in the United States, as a citizen thereof, of the testimony of seven witnesses, to the effect that said Wong See Ying was born in the United States, and was a citizen thereof, and in rejecting said offer of said Wong See Ying to make said proof at said hearing, the said Wong See Ying was deprived of his personal liberty and of his right to land in the United States without due process of law.

III.

That the District Court erred in holding that said Commissioner of Immigration for the Northern District of California, and the Department of Commerce and Labor, did allow and give the said Wong See Ying a fair hearing in good faith as to his right to enter, be and remain in the United States as a citizen thereof.

JOHN C. CATLIN,

Attorney for Petitioner.

STIDGER & STIDGER,

Of Counsel.

[Endorsed]: Filed in open court Mch. 7, 1908.
Jas. P. Brown, Clerk. By Francis Krull, Deputy
Clerk.

*In the District Court of the United States, in and
for the Northern District of California.*

No. ———.

In the Matter of WONG SEE YING on Habeas
Corpus.

Order Allowing Appeal, etc.

Wong See Ying, having presented to this Court in open session, on this 7th day of March, A. D. 1908, his petition on appeal to the United States Circuit Court of Appeals for the Ninth Circuit, from the judgment, order, and decree made and entered by this Court on the 28th day of February, A. D. 1908, remanding Wong See Ying to the custody from whence he came, and having presented to the Court at the same time an assignment of errors, and having by his counsel moved the Court for an order allowing said appeal and staying proceedings during the pendency of said appeal—

It is hereby ordered that the said appeal be and the same is hereby allowed; and further, that a certified transcript of all the record and all proceedings be prepared and transmitted by the Clerk of this Court to the United States Circuit Court of Appeals for the Ninth Circuit, in the time prescribed by law.

And it is further ordered that the custody of the said Wong See Ying be not disturbed or changed unless by order of this Court or the Appellate Court.

Done in open court this 7th day of March, A. D. 1908.

JOHN J. DeHAVEN,
Judge.

[Endorsed]: Filed Mar. 7, 1908. Jas. P. Brown,
Clerk. By Francis Krull, Deputy Clerk.

*In the District Court of the United States, in and
for the Northern District of California.*

No. 13,751.

In the Matter of WOONG SEE YING, on Habeas
Corpus.

**Traverse to Answer and Return of H. H. North,
Commissioner of Immigration, to Writ of
Habeas Corpus.**

Now comes the petitioner in the above-entitled matter and traverses the answer and return of H. H. North, Commissioner of Immigration, to order to show cause issued herein.

I.

Traversing the first paragraph, denies that the petition for writ of habeas corpus herein fails to state any fact or facts from which it can be determined that the applicant for said *writ, to wit*, the said Wong See King (Ying).

II.

Traversing the second paragraph denies that said Wong See King (Ying) is an alien Chinese person, and a native of the Empire of China, and that he has no right to enter or land in the United States; but, on the contrary, avers that said Wong See King

(Ying) was born in San Francisco, California, in 1879, and thereafter departed with his mother for the "Empire" of China, and has never renounced or abjured his citizenship and allegiance to the United States, and now returns to and claims the right to enter the United States as a citizen thereof. Further traversing that part of the 2d paragraph alleging "That then and there, to wit, in said October 16th, 1907, said Wong See King (Ying) named all of the witnesses who might give any evidence in support of his right to land in or to enter the United States," said petitioner is informed and believes, and therefore avers, that said Wong See King (Ying) did not name all of the witnesses who might give evidence in support of his right to land in or to enter the United States.

III.

Traversing the third paragraph, alleging that the witnesses "did disclose to the said inspector at said hearings all of the facts within their knowledge relative to the right of the said Wong See King (Ying) to land in or to enter the United States, and denies the examination of the said witnesses was made by the said inspector, P. F. Montgomery, and that the same was full and complete.

And that the said witnesses at said hearings related all of the facts within their knowledge as such witnesses, and each of said witnesses, after being duly and regularly questioned at length and after having made answer to the questions propounded at said hearings, was asked to state anything further with reference to the nativity of or the right of the

said Wong See King (Ying) to land in or to enter the United States than had been stated in response to the questions propounded at said hearings.

And that each of said witnesses stated at such hearings that the answers by them given were all the information which they could give with reference to the nativity of the said Wong See King (Ying), or with reference to his right to land in or enter the United States.

And that in addition to examining the witnesses designated by the applicant, the applicant himself was examined at said hearings and permitted to testify with reference to his right to land in or to enter the United States.

And that the examination of the said Wong See King (Ying) was full and complete, and that at said examination said Wong See King (Ying) was permitted to testify at length with reference to his nativity and with reference to his right to land in and to enter the United States, and was in no manner prevented from giving all the facts within his knowledge with reference to said matters.

IV.

Traversing the fourth paragraph, and particularly that portion which states that said applicant made no request to be present, this petitioner, on his information and belief, states that said applicant was not informed of his right to be present, or to have an attorney present, at the examination of himself or of his witnesses, but, on the contrary, this petitioner, on his information and belief, denies that said applicant was permitted an opportunity to be present

at the examination of his witnesses, or that his attorney would be permitted, if present, to conserve the legal right of said applicant, as under the provisions of said rule referred to such attorneys is permitted to be present through sufferance, and is not permitted to assist in any manner or form by word or in writing the legal rights of such applicant; nor is he permitted to take any copy of any record made at the time of such hearing, or to except to any part of the same. Nor is he permitted to take part in any examination of the applicant or his witnesses, but that said examination was held secretly and without the presence of the said applicant or of his attorney.

Further traversing the fourth paragraph, this petitioner avers that said hearings were not held in accordance with a rule of the Department of Commerce and Labor, promulgated on May 31, 1907, modifying rules "5 and 6," referred to in said fourth paragraph, referred to in said answer, which rule is as follows:

DEPARTMENT OF COMMERCE AND LABOR,
BUREAU OF IMMIGRATION AND NAT-
URALIZATION.

15 G & 3 2-6.

Washington, May 31, 1907.

Commissioner of Immigration, San Francisco, Cal.

Sir: It is hereby directed that hereafter in all cases of Chinese persons applying for admission at United States ports the privilege shall be accorded such persons of having present, when they and their witnesses are examined, counsel and an independent interpre-

ter of the Chinese language employed by such counsel and vouched for by him.

Counsel and the interpreter employed by him will not be permitted to take part in the examination of the Chinese applicant, further than to observe the proceedings as conducted by the Immigration officials and to take exception to any question or answer which, in their opinion, is not correctly and fairly rendered from English into Chinese or from Chinese into English, as the case may be. If any controversy arises between the Government interpreter and the interpreter employed by counsel as to the correct rendition of a word or phrase, which controversy it is not possible to immediately settle to the satisfaction of all concerned by changing the form of question involved or otherwise, the matter shall be submitted to the decision of an umpire in the person of a qualified interpreter, either in the Government employ or not, but in any event acceptable to the officer in charge at the port of entry, to whom the subject of controversy shall be plainly and fairly stated in such a hypothetical manner as to prevent, if possible, his comprehending what solution would be acceptable to either of the parties, respectively, and his decision upon the disputed point shall be final. Interpreters appearing with counsel will be sworn to interpret correctly in performing the service described.

Attorneys practicing at ports of entry will be advised of this departure from the custom heretofore obtaining and of the limitations which are placed upon the privilege. They will also be notified that, before any person will be admitted to act as an inter-

preter for counsel, the name, address and occupation of such person must be furnished the officer in charge at the port, in order that the standing of the proposed interpreter in the community and his general reputation for honesty and capacity may be made the subject of investigation; approval of such person's admission to act as interpreter to be granted or refused as the result of such investigation may justify.

Every reasonable precaution shall be exercised by immigration officials to prevent any abuse of this privilege, and if any interpreter employed by counsel is detected in an effort to assist an applicant for admission by any undue or unauthorized means, counsel employing the interpreter will be immediately notified that the interpreter's services are no longer acceptable, and that he will not be permitted to again appear, but must be superseded by some man of unquestioned honesty; and, on the other hand, if it should transpire that the Government interpreter has been guilty in any case of a deliberately erroneous interpretation or translation, such fact, together with a sufficiently detailed statement to indicate the seriousness of the particular offence, shall be reported to the Department for such action as it may deem appropriate.

There is no intention that the methods of examination heretofore followed under the plain provisions of the statutes shall be departed from, or that the examination of Chinese applicants shall be made to partake of the character of the court proceeding, or be limited by the rules of evidence that apply to the examination of witnesses in cases heard in court. The

intention is that each and every applicant, through his regularly authorized and employed counsel and counsel's independent interpreter, may be accorded the utmost assurance that the statements made by him and the witnesses that he produces are conveyed to the minds of the Government officials charged primarily with the decision of his case, and eventually to the Department itself if an appeal becomes necessary, in the exact form and bearing the exact meaning intended by the Chinese idioms employed in giving expression to the testimony.

From the plan contemplated by the preceding *instructions* has been in operation for a period of sixty days you should report to the Bureau what, in your judgment, has been accomplished thereby, and in what respects, if any, the plan should be modified and your reasons for such belief.

Approved.

Respectfully,
(Sgd.) P. P. SARGENT,
Commissioner General.

FNL.

(Sgd.) LAWRENCE O. MURRAY,
Assistant Secretary.

APP/WP.

V.

Traversing the fifth paragraph, this petitioner, on his information and belief, denies that said applicant was duly and regularly adjudged admissible, and that it was duly and regularly determined by the respondent, H. H. North, that the said petitioner had no right to land in or enter the United States, and

that he was an alien Chinese person, and a native of the Empire of China, but on his information and belief said petitioner avers that said determination and order of said H. H. North was arbitrary and unreasonable, and was not a due and regular determination of the right of the said applicant to land in said United States, as a citizen thereof, and in this connection said petitioner on his information and belief avers, that said H. H. North, arbitrarily and unreasonably declined to consider or believe the proofs and evidence, documentary and otherwise, submitted by said Wong See King (Ying) in support of his claim that he was born in the United States, and a citizen thereof.

VI.

Traversing that portion of the sixth paragraph which states "that prior to taking of the said appeal, said applicant was at all times advised by counsel familiar with the rules and regulations herein referred to, governing the admission of Chinese into the United States, but neither the said applicant, nor his counsel suggested any witnesses other than those examined as hereinbefore mentioned, or any evidence other *then than* hereinbefore mentioned that could be offered or that should be received in support of the right of the said applicant to land in or enter the United States." This petitioner states that the applicant was not permitted to see or consult or advise with an attorney at any time by the said H. H. North and his subordinate officials, nor was said applicant allowed under the amendatory Rule of May 31, 1907, *set in* paragraph fourth thereof, to be present when

his witnesses were examined, or to be present at any stage of the proceedings preliminary to the taking of an appeal from the determination of said H. H. North, adjudging that said applicant was not entitled to enter the United States as a citizen thereof.

VII.

Traversing that portion of the eighth paragraph which states that all of the hearings had for the purpose of determining the right of the said Chinese applicant to land in or to enter the United States were full, fair and regular, and that said applicant had at all times full and fair opportunity to be heard, to offer evidence in support, of his right to land in or to enter the United States." This petitioner on his information and belief denies that all of the hearings had for the purpose of determining the right of the said Chinese applicant to land in or to enter the United States were full, fair or regular, or *full, fair or regular*, and that said applicant had full and fair, or full or fair opportunity to be heard and to offer evidence in support of his right to land in or enter the United States, and in this behalf petitioner avers that said hearings were not full or fair or regular, and were not held in good faith, and that said applicant did not at all times have full and fair or full or fair opportunity to be heard and to offer evidence in support of his right to land in or enter the United States, and further avers, on his information and belief, that said applicant was not given the benefit of the amendatory rule of May 31, 1907, and that H. H. North, arbitrarily and unreasonably, declined to consider or to believe the proofs and evidence submitted

by said Wong See King (Ying) and others in his behalf, in support of his claim that he was born in the United States, and entitled to return thereto as a citizen thereof, and further avers that all and every part of the *proceedings* the matter of the application of the said Wong See King (Ying) were not held in good faith by said H. H. North and his subordinates.

VIII.

Traversing that part of the Ninth paragraph which alleges that all acts and things done or performed by this respondent in conducting said hearings, or in detaining the said Wong See King (Ying), were done and performed by this respondent acting as such Commissioner of Immigration, or done and performed by officers acting under the direction of this respondent as such Commissioner of Immigration at said port of San Francisco, and under and in pursuance of the laws of the United States relating to the exclusion of the Chinese persons and under the said rules and regulations promulgated and existing hereinbefore referred to, this petitioner denies each and every part thereof, and avers that at no time was said applicant given the benefit of the amendatory Rule of May 31, 1907, therein.

Wherefore, petitioner prays that said Wong See King (Ying), a citizen of the United States, be discharged from the custody of the respondents herein, and be forthwith restored to his liberty.

United States of America,
State and Northern District of California,
City and County of San Francisco,—ss.

—————, being duly sworn, deposes and says:
That he is the petitioner in the above-entitled matter;
that he had heard read the within traverse, to the re-
spondent's return to the writ of habeas corpus, and
knows the contents thereof; that the same is true of
his own knowledge except those matters therein
stated on information and belief, and as to those
matters he believes it to be true.

The original traverse herein not appearing on the
files of the court, it is hereby stipulated that this
copy may be filed and considered as the traverse to
the answer and return herein filed by the United
States of America.

Dated Mch. 10, 1908.

GEORGE CLARK,
Asst. U. S. Atty.

[Endorsed]: Filed Mch. 9, 1908. Jas. P. Brown,
Clerk. By Francis Krull, Deputy Clerk.

Clerk's Certificate to Transcript of Record.

I, Jas. P. Brown, Clerk of the District Court of
the United States, for the Northern District of Cali-
fornia, do hereby certify that the foregoing and here-
unto annexed one hundred and nine (109) pages,
numbered from 1 to 109, inclusive, contain a full,
true and correct transcript of the record in said Dis-

trict Court in the matter of Wong See Ying On Habeas Corpus, No. 13751.

I further certify that the cost of said record, amounting to \$53.90, has been paid by appellant.

Witness, my hand and the seal of the said District Court at San Francisco, this 2d day of April, A. D. 1908.

[Seal]

JAS. P. BROWN,
Clerk.

[Endorsed]: No. 1585. United States Circuit Court of Appeals for the Ninth Circuit. Wong See Ying, Appellant, vs. The United States of America, Appellee. Transcript of Record. Upon Appeal from the United States District Court for the Northern District of California.

Filed April 2, 1908.

F. D. MONCKTON,
Clerk.